



The Federal Supreme Court (F S C) has been convened on 4.30.2018 headed by the Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Aboud Salih Al-Temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who authorized in the name of the people to judge and they made the following decision:

The Request

The presidency of Baghdad appeal Court/ federal Risafa/ office of general and legal affairs requested from the FSC according to its letter number (ain/1333) on 4/8/2018 to try the request presented by (mim.sad.mim) the investigation judge in Al-Sadr city dated on (3.28.2018 – according to competence – and after reviewing above-mentioned request, the Court found that mentioned judge requested by the Head of Risafa appeal Court/ federal Risafa from the FSC ((to take a decision in legitimacy article's (42) text of unified pension law number (9) for 2014. He also requested to make the law becomes in effect retroactively with a definite way, without determine it by a time limit)). The request – inquiry subject – included the following: ((what submitted to your Excellency and well-known that the unified pension law number (9) for 2014 was enacted and published in the gazette by Ref. (4314) on 3.10.2014. this law stipulated in its texts, specifically article (42) on the following (this law shall be published in the gazette, and considered valid from the date (1.1.2014). According to complaint presented to this Court by the complainant above-mentioned which granted validity of the law retroactively for (3) months only, and it wasn't mentioned definitely. This text violated clearly the text of article (14th) of the Republic of Iraq Constitution (Iraqis are equal before the

law without discrimination... or the economy status.. also aforementioned text had violated article (19/9th) of the Constitution which stipulated (laws shall not have retroactive effect unless stipulated otherwise..). As well as the text of article (42) of unified pension law aforementioned, had violated aims and rationale of the same law. The aim of enacting this pension unified law is to guarantee that the pension coverage reaches more groups, and this what article (2-jim) of aforementioned law went to, also the rationale of enacting unified pension law has aimed the same reason of its enacting which is it expanding including base for more groups, and to reduce discriminations between retirees this law had been enacted. Whereas the civil law number (40) for 1951 in article (16) stipulated the following (definite shall remain as it is). Therefore, and according to the FSC's bylaw number (1) for 2005 article 3rd of it, which granted the Courts to challenge constitutionality of the law, legislation or regulation reviewed before the Court including a case. Accordingly, this Court seize opportunity to present all appreciation and respect for your Excellency, and the Court requests (cease working insufficiency of article (42) text of unified pension law number (9) for 2014, and this law is in effect retroactively, definitely without determine it by a time limit... with thanks and appreciation). The request was set for scrutiny and deliberation by the FSC. The Court reached the following decision:

The Decision

After scrutiny and deliberation by the FSC, the Court found that the judge of Al-Sadr investigation Court challenging his request dated on (3.28.2018) to taking a decision in legitimacy of article (42) of unified pension law number (9) for 2014, and to cease working insufficiency of the text of article above-mentioned. He also requested to make the law becomes in effect retroactively and definite without limiting it by a time. He requested that for the reasons listed in the request aforementioned. When the Court scrutinized the request, it found that the judge of Al-Sadr investigation Court challenged article (42) of unified pension law number (9) for 2014, while there was no case tried by him that relates to this article of the law aforementioned, but there was a notice presented by (mim.ha.ain) to aforementioned Court related

of her losing for some official documents, including some cards issued by National pension commission belongs to her underage children. Aforementioned notice is not a case according to the text of article (3) of the FSC's bylaw number (1) for 2005 which stipulates ((if one courts requested by itself, when trying a case, to take a decision in the legitimacy of a text of a law or legitimate decision or regulations or instructions related to this case. So the Court can send the request with a reason to the FSC to take a decision about it. This request doesn't subject to the fee)). Whereas above-mentioned request didn't fulfill formal stipulations which determined in the text of article (3) above-mentioned, and this required to reject it. The FSC decided to reject the request formally, and the decision issued unanimously on 4.30.2018.