



The Federal Supreme Court (F S C) has been convened on 10.7.2018 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, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen and Mohammed Rijab AL-Kubaisi who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: the Prime Minister/ being in this capacity – his agent the Legal assistant consultant (ha.sad).

The Defendant: the Speaker of the ICR/ being in this capacity - his agents the jurist officials, the director (sin.ta.yeh) and the legal consultant assistant (ha.mim.sin).

The Claim

First: the plaintiff claimed that the defendant had approved the general budget of the Republic of Iraq by the law No. (9) For 2018. This budget had listed a number of articles weren't exist in the bills which presented by the government, or amendment on the articles presented by the government. This matter is contrariwise to what constitutional judiciary in Iraq settled on, also the ICR had violated the article (62/2nd) and article (80/1st) of the Constitution and article (47) of it. Second: the ICR had violated the constitutional texts aforementioned, and what the constitutional judiciary settled on by adding new texts or amending the texts proposed by the Cabinet without taking the government's opinion. So, it added and amended the following articles: 1. the article (2/1st/3/alif) of budget law: when it add (the decision of the Cabinet No. (350) for 2016 and the Council of the State) to the government project, without taking the

government's opinion, and consider it from reserve contingency. This matter contradicts with the provisions of article (5) of the general budget law (challenge subject) (to expend from reserve contingency) because it wasn't presented to the Cabinet to approve it. As well as, it is not allowed to list the Council of the State allocations because the Council has the administrative and financial independence. Its allocations can't be listed within the reserve contingency which reserved including the account of another expenditures. As long as its allocation has an independent chapter, and it was listed includes annexed tables of the budget law. 2. The article (2/2nd/19) of the budget law: it stipulates (all sovereign guarantees of investment projects shall be approved by the Cabinet, and the approval of the ICR). This was a new text enacted by the ICR, and it couldn't be implemented because it will lead to paralyze the government movement, and it will not be able to implement the loans clauses and all mentioned guarantees in the budget law (challenge subject). This means intervention in the government work and its competencies stipulated in the articles (78, 80/1st) of the Constitution, and violation to the article (61) of the Constitution which determines the ICR competences, and not among it the approval on sovereign guarantees for the investment project. These competencies are restricted by the Cabinet and considered a pure executive affair. 3. The article (57/1st, 2nd, 5th and 6th) of the budget law. Its subject the budget of the ICR which considered a new text enacted by the Council without approval from the government, as following: alif) item (1st) according to it, an amount of two billion Iraqi dinars were allocated for investment expenditures for the ICR. This allocation will add financial burdens on the State without result or reason for this increasing of financial allocations, and he didn't present the necessity of this increasing. Especially that the subject of increasing is an investment budget, whereas this matter is contradicts with the provisions of article (62) of the Constitution because it added a new financial amounts. The aforementioned article has allowed the ICR to make transaction between the budget chapters, and allocate total of its amounts. Also the Council has the right to propose increasing of total expenditures on the Cabinet. Beh) item (2nd) according to it, the salaries of ICR Presidency committee were reduced by (50%) of the salary allocation, also reducing the salaries of the ICR members by (45%) of

salary allocation. As well as reducing the salaries of private posts by (40%) of salary allocation, and this reduction corresponding to the Cabinet's decision No. (282) for 2015. In this concern, aforementioned text cause a differential in salaries of the Head and members of the Cabinet, and the President of the Republic and his deputies from this side and the Speaker and members of the ICR on the other side. It also considered a maneuver on reformations which adopted by the government, and this procedure will return the salaries and allocations of the Speaker and members of the ICR as it was. This matter is violating the general policy of the government which represented by compressing the three Presidencies salaries...etc. Jim) item (5th) which considered a new text enacted by the ICR, and this text obliges the government to approve the personnel of the ICR shown in the table which is not presented to the Cabinet and no approval from the Ministry of finance on it. This text violates the criteria of Ministry of planning in structuring the concerned official offices in preparing and approving it, it also forms added financial burdens on the State because of inflation of this structure without approval from the government. Dal) item (6th) it is also a new text enacted by the ICR, this text grants the ICR the right of issuing instructions to execute provisions of article (57) of the law (challenge subject). Therefore, the Council had violated the article (61) of the Constitution which stipulates on the ICR competences, not among these competencies is issuing instructions to execute provisions of the law. It also trespassed the government's competencies stipulated in the article (80/3rd) which grants the Cabinet the right of issuing instructions to execute provisions of this law. Accordingly, this matter caused a violation to the principle of separation between powers which stipulated in article (47) of the Constitution. 4. (58/1st/beh, 3rd) of the budget law: it is new text enacted by the ICR, and includes allocating an added amount on expenditures chapter in the budget which is not exist in the budget bills which approved by the Cabinet. It is stipulates on allocating an amount for the Higher Judicial Council for the fiscal year 2018 according to the table stipulated in the aforementioned article of the budget law (challenge subject), and the necessity that the Higher Judicial Council personnel for the fiscal year 2018 must be according to the table stipulated in the table of aforementioned article. All these additions without

approval from the government, or taking its opinion. For this reason, the Council had violated article (62/2nd) of the Constitution, and it trespassed its competences stipulated according to it because it increased the total of allocated amounts without making transaction between the budget chapters and clauses. It also didn't proposed this on the Cabinet, and it burdened the State's treasury an additional financial burdens, which means it violated the article (80/1st and 4th) of the Constitution and trespassed the government's powers with violation to principle of separation between powers stipulated in article (47) of the Constitution. Also what the ICR enacted in clause (3rd) is violating the general policy of the State which the Cabinet is responsible of setting and executing it according to article (80/1st) of the Constitution. This article stipulates not to expand the expenditures, and increasing the number of employees because there isn't financial allocation cover their expenditures, with this huge deficit in the general budget of the State. Iraq is also obliged by the terms of agreement with the International Monetary Fund by not increasing the number of employees, and reducing the expenditure with treating the deficit. Article (59/1st) of general budget law: it is new text enacted by the ICR without approval from the government, or taking its opinion. This text included allocating an amount for investment budget and the current for higher commission for human rights, and to be distributed according to the table stipulated in the aforementioned article. So, the ICR had violated the text of article (62/2nd) of the Constitution and trespassed its competences stipulated according to it, because by this text the ICR had increased the total amounts of the general budget without making transaction between its chapters and clauses, also without proposing this matter on the government. This text will burden the State's treasury a big financial burdens, and the ICR will violates the principle of separation between powers stipulated in article (47) of the Constitution. As well as, it is considered a new procedure because the commission's budget aforementioned is listed within the expenditure table, and the budget ceiling increasing is not allowed according to the article (62/2nd) of the Constitution. 6. Article (59/2nd) of general budget law: it is new text enacted by the ICR without approval from the government, and this text obliged the government to make the personnel of higher independent electoral commission for the fiscal year 2018 which

distributed according to the table stipulated in the article (challenge subject). This table wasn't presented to the Cabinet, and that approval of finance Ministry wasn't acquired. This matter violates criteria of planning Ministry in the structure of concerned State's official foundations, and this office is specialized in preparing and approving it, and it will add financial burdens on the State's treasury because of this structure inflation without taking the government approval. Therefore, the ICR had violated the article (62/2nd) of the Constitution, and for all these reasons, the agent of the plaintiff requested from the FSC to judge by unconstitutionality of articles (2/1st/3/alif) and (2/2nd/19) and (57/1st & 2nd & 5th & 6th) and (58/1st/beh, 3rd) and (59), and he also requested to annul these articles because they violates the provisions of the Constitution and violates what the constitutional judiciary in Iraq settled on retroactively starting from (1/1/2018), with burdening the defendant the expenses and advocacy fees. The agents of the defendant answered the petition of the case with an answering draft dated on (24.5.2018) as following: 1- the agent of the plaintiff claims in clause (1st) of his draft that the ICR had made a fundamental amendments on the budget bill which sent to the government, and this matter violates the FSC judiciary settled on. So, we clarify that the agent of the plaintiff didn't clarify (in clause (1st) of his draft) specifically where the Council made these fundamental amendments on the budget bill. Therefore, they requested to rejected this unproductive defend in the case. 2- The agent of the plaintiff claims in clause (2nd/1) of his draft that the article (2/1st/3/alif) of budget law had made the allocations of State Council and executes the Cabinet's decision No. (350) for 2017 from allocations of contingency reserve, and this contradicts with the article (5) of the law (challenge subject). We say, the Court is not competent to try how the legal texts contradicts with each other in the same law, if there was a contradiction between it. Adding to this, the aforementioned article represents a restriction on the article (5) of budget law and is considered a legitimate expression of the ICR's will to guarantees financing of private expenditures of the State's Council. Whereas this Council disengaged from the Ministry of Justice, this disengagement granted the Council a guarantee to carry out its tasks, as well as execute the decision issued by the government itself which objects

enacting a law guarantees executing the decision. 3- the agent of the plaintiff claims in clause (2nd/2) of his draft that article (2/2nd/19) of budget law by its text on (all sovereign guarantees of investment projects with approval of the Cabinet and the ICR) had touched the government competences according to articles (78,80/1st) of the Constitution, in addition to that it violates the article (61) of the Constitution which determine the ICR competences, and not among these competencies is approving mentioned sovereign guarantees, so we say: the article (61) of the Constitution didn't stipulate on the ICR competences which listed in it exclusively, worthy to mention there are many other competencies in many articles in the Constitution. In addition to what other competencies and powers could be listed in the laws enacted by the Council to impose its monitory on executive power works as the Constitution stipulated. The Council's will directed to suspend the sovereign guarantees of investment projects till the ICR approves it. This procedure is to impose more monitory sides on executive power works, and it will ensures not to grant sovereign guarantees for exterior loans which may threatens the State's treasures or touches the high interest of the State. It considered legitimate matter imposed by the Council to maintain the sovereignty if the State and its vital interests. 4- The agent of the plaintiff claims in clause (2nd/3/alif) of his draft that the ICR had dedicated an amount of (2 billion Iraqi dinars) for investment expenditures without any result or a reason, and that was according to article (57/1st) of budget law. This matter will exhaust the State's treasury and conflicts with article (62) of the Constitution, so we say: aforementioned amount is for coverage of documentary credit that related to building the historical edifice of the ICR which concluded with Zuha Hadeed Company. This contract weren't concluded but after acquiring the legitimate approval from specialized government office which is it the economy committee in the Cabinet. 5- The agent of the plaintiff claims in clause (2nd/3/beh) of his draft that the ICR had reduced the salaries of the Presidency committee, members and private posts in accordance with the decision No. (282) for 2015 according to article (57/2nd) of budget law, and aforementioned law reduces allocations not the salary. It distinguish between the salaries of the three Presidencies and the private posts in it, and it also maneuvers the government reformations. It will also returns the

salaries of the ICR as it was before, and this matter violates the government policy in compressing the expenses and will increase this expense, it also will distinguish between the legal posts which expressed in the decision of the Cabinet No. (333) for 2015, so we say: the decision No. (333) for 2015 which should be implemented on the ICR is determining the allocations of those whom covered by its provisions according to scientific attainment and social status. But the ICR has a privacy not hidden for the Court, and all Council members are equal in their affairs and the Constitution equalized between them as they represent the Iraqi people for one hundred thousand Iraqi citizen represented by a representative. All those representative are exercising one work, and no distinguish in it. This work is what the ICR is commissioned to do, and the vote of each member of the Council is equal to the vote of any other member without distinguish between them. Therefore, it will not be fair to account what allocations and bonuses they takes by relying on their diploma, and other affairs. This matter will cause a differential between allocations of the Council members in spite of that their circumstances are differentiated.

6- The agent of the plaintiff claims in clause (2nd/3/beh) of his draft that the ICR had enacted a new text in the article (57/5th) of budget law which obliges the government to adopt the personnel of the ICR according to a table weren't presented to the Cabinet, and not approved by the Council and the Ministry of planning. This matter violates the criteria of Ministry of planning and will burdens the State an added financial burdens because of the ICR personnel structure inflation without approval from the government. So we say: the ICR is an independent power according to article (47) of the Constitution, therefore, it is not possible to submit the personnel to approval from executive power. Submitting the number of personnel and its approval to the provisions of article (7/1st) of National assembly law, and the Head of the assembly has the authority of the Prime Minister or concerned Minister in what related to appointing the employees within the personnel limit which is officially approved, and article (9/12th/alif) of the Council's bylaw which stipulates (taking decisions of appointment shall be achieved with agreement between the Head and his two deputies in the Presidency committee).

7- The agent of the plaintiff claims in clause (2nd/3/dal) of his draft that the ICR had granted the Council's

Presidency in article (57/6th) of budget law the power of issuing instructions to execute provisions of article (57) of the budget. This power is not including the Council competencies stipulated in the article (61) of the Constitution, and issuing instructions is a right of the Cabinet according to the article (80/3rd) of the Constitution. Here we clarify that competences of the ICR are not mentioned exclusively in article (61) of the Constitution, and the Constitution didn't list that the Council is not allowed to take a considerable legal competence. As well as article (57) of budget law is firmly contacted with the ICR, and it has no relation with the Cabinet or fields which the Cabinet is carried out to organize it by instructions, also the article (80/3rd) of the Constitution didn't stipulate that issuing instructions is exclusive affair of the Cabinet, but it stipulated that this matter considered one of its competences. This matter doesn't meaning that this competence is exclusive authority of the Cabinet, especially within the affairs of the other power in the law, implementing to provisions of article (47) of the Constitution which stipulated on separation between powers. 8- The agent of the plaintiff is objecting in clause (5/5) of his draft that the ICR had enacted a new text in article (59/1st) of budget law, and it allocated an amount for investment budget expenditures and the current for higher commission of human rights without approval from the government, and this text violates article (62/2nd) of the Constitution because it increased the total amounts of the budget without making transaction between its chapters and clauses, and also without proposing this increasing on the Cabinet. The Council also violated article (47) of the Constitution, and he objected in clause (5) of his draft on the personnel of the commission because listing the table was done contrariwise the Constitution in articles (62/2nd) and (80/1st and 4th and 47) so we say: the texts which concerns the commission had been listed to provide required financial sources to facilitate its tasks, especially the general allocations of the budget are concerning the current budget, and according to it the salaries of employees were disbursed. Also, approving the structure of the commission is to guarantee its work with its personnel, therefore they requested to reject the case and to burden the plaintiff the expenses and advocacy fees. The Court set a date for argument, and on that date the agent of the plaintiff and the agents of the defendant attended according to the power of attorney attached to the case dossier, and

the public in presence argument proceeded. The agent of the plaintiff repeated what listed in the petition of the case, and he requested to judge according to it, with burdening the defendant all expenses and fees. The agents of the defendant repeated what listed in the answering draft, and they requested to judge according to it, with burdening the plaintiff all expenses and fees. The Court found that the agent of the plaintiff presented what the Court requested, whereas he presented a table by articles listed in the financial budget for 2018. He clarified in this table the article (challenge subject) which he considers unconstitutional, and the constitutional substantiation of this challenge. He also clarified if this article was exist in the presented bill and amended by the ICR, neither by deletion nor adding, or it was listed while it wasn't exist in the bill by the ICR. He presented these details with the note of amendments that had been made without returning to the government, especially the amendments which added an amounts on the budget and it wasn't exist in the bill. All exhibits were attached in the dossier of the case, and the agents of the defendant presented an answering draft dated on (1.7.2018) as an answer to the agent of the plaintiff draft dated on (24.6.2018), whereas they answered: first: what listed in (2nd) of the agent of the plaintiff draft in clauses (1,2,3,4), the agent of the plaintiff didn't indicates to a constitutional text may inhibits the ICR from making a part of chapter dedicated for contingencies to be dedicated for the Council of the State, and executing the Cabinet's decision No. (350) for 2016. Whereas honorable Court is searching in how laws are constitutional, therefore, his case from this aspect has no substantiation and unproductive. Second: as answer on what listed in (3rd) of the agent of the plaintiff draft – clauses (1,2), we clarify to the honorable Court that the ICR didn't touch the government's right in directing and administrating the investment projects according to article (2/2nd/19) of general budget law for 2018. While the legislator's will proceeded to the necessity of ICR approval on sovereign guarantees presented by the government for the purposes of these projects. This is a relative matter, and the ICR has the right to direct it as it desires according to its legislative competence in article (61/1st) of the Constitution, and the reason behind what we mentioned is the risk of releasing the hand of the government in presenting what sovereign guarantees it wants. This matter is about

overseeing power which the legislator has on administration of executive power. Third: we confirm our previous answer, and the contract of building the historical edifice of the ICR done according to the law and it approved the instructions of executing the government contracts. The project will not be passed until the economic committee in the Cabinet approves it, and not allocating required amount to cover documentary credit will represent a refusal from the ICR (Iraqi part) with Zuha Hadeed Company, it also will cause legal problems and violation to contract commitments. Fourth: as for clauses (5th & 6th & 7th & 8th & 9th), we repeat what listed in our answering draft dated on (24.5.2018). Therefore, they requested from the honorable Court to reject the case, and to burden the plaintiff its expenses and advocacy fees. Each party repeated its sayings and previous requests, and they requested to judge according to it. Whereas nothing left to be said, the end of the argument has been made clear.

The Decision

During scrutiny and deliberation by the FSC, the Court found that the agent of the plaintiff is challenging unconstitutionality of articles (2/1st/3/alif) and (2/2nd/19) and (57/1st & 2nd & 5th & 6th) and article (58/1st/beh, 3rd) and (59/1st) and (59/2nd) of federal budget law No. (9) For 2018 because it violates the Republic of Iraq Constitution for 2005. After scrutinizing these challenges, the Court reached the following decision: 1. as for challenged listed on article (2/1st/3/alif) of the law (challenge subject) which texts (an amount of (192.000.000) one hundred ninety-two billion Iraqi dinars (contingency reserve) includes the credits of other expenditures for the budget of federal Ministry of finance from the asset allocations listed in item (1st- beh) above-mentioned. Including, the allocations of State Council, and the decision of the Cabinet No. 350 for 2016. The FSC finds that the agent of the plaintiff is challenging unconstitutionality of above-mentioned article in the petition of his case because it contradicts with the article (5) of the law (challenge subject) not because it contradicts a constitutional text. Whereas the FSC is incompetent to try the contradiction between the legal texts with each other in the same law, because the competences of the FSC are determined in the article (93) of the Constitution, and the article

(4) of the FSC's law No. (30) For 2005. Not among these competencies the trying in the contradiction between legal texts, but to trying challenges related to a contradiction between legal text and constitutional text. 2. as for challenge listed on the article (2/2nd/19) of federal budget law which stipulates (all sovereign guarantees of investment projects shall be approved by the Cabinet and the ICR). The FSC finds that the ICR has added the last clause – the necessity of the ICR approval on sovereign guarantees- to the bill (challenge subject) without taking the Cabinet approval, and executing this text will restrict the authority of the executive power in expending the investment projects amounts. This matter regarded an interference in the executive power affairs and violates the principle stipulated in the article (47) of the Constitution which stipulates on the separation between powers. It also violates article (61/1st) of the Constitution, whereas it's not a competence of the ICR to approve the sovereign guarantees of investment projects and the ICR according to its power by overseeing the executive power has the authority to recourse to constitutional means in overseeing it, not to put restriction on the executive power movement by stipulation the approval on sovereign guarantees of investment projects. Therefore, the unconstitutional challenged article is violating constitutional articles aforementioned, and this requires to judge by unconstitutionality of the last part of the aforementioned article which includes the approval of the ICR on sovereign guarantees. 3. As for challenge listed on article (5/1st) of the law (challenge subject) which stipulated (an amount of (289.319.272.000) Iraqi dinars (two eighty-nine hundred billion and three hundred nineteen million and seventy-two thousand Iraqi dinars) shall be allocated for expenditures of the ICR, and divided as follows: (alif) amount of (2.000.000.000) dinars (two billion dinars) for investment budget. (beh) amount of (287.319.272.000) dinars (two hundred eighty-seven billion and three nineteen million and two hundred seventy-two thousand dinars) for the current budget. According to the aforementioned text, an amount of two billion Iraqi dinars were allocated for the investment budget of the ICR. This amount will produce a financial burden without a result or reason for this expenditure increasing, and this violates provisions of article (62/2nd) of the Constitution because it added new financial amounts on the budget bill without taking approval from the Cabinet. This

matter violates article (62/2nd) of the Constitution which allowed the ICR to make the transaction between the general budget chapters and its clauses, also reducing the total of its amounts. The ICR in necessity can propose on the Cabinet to increase the total of expenditures. Therefore, the FSC finds that allocating the ICR for this amount and adding it on the budget bill for 2018 without returns to the Cabinet to get its approval is violating the article (62/2nd) of the Constitution, and taking the approval of economy committee in the Cabinet on the project which allocated aforementioned amount doesn't mean the approval of the Cabinet according to what article (62/2nd) of the Constitution requires. This requires to judge by unconstitutionality of it. 4. As for challenge listed on article (57/2nd) of the law (challenge subject) which stipulated (the salaries of ICR Presidency committee were reduced by (50%) of the salary allocation, also reducing the salaries of the ICR members by (45%) of salary allocation. As well as reducing the salaries of private posts by (40%) of salary allocation, and this reduction corresponding to the Cabinet's decision No. (282) for 2015). The FSC finds that it prejudice in the judgment of case No. (57/federal/2018) on (3.6.2018) by the constitutionality of the part related to reducing a percentage of salary allocations for the Presidency committee of the ICR and its members because it doesn't violate the Constitution, and for the reasons listed in aforementioned judgment. Therefore, trying unconstitutionality of the aforementioned part in this case (83/federal/2018) is not allowed because of the judgment issued decisively and obligatory according to the article (94) of the Constitution and article (5) of the FSC law No. (30) For 2005, and it's not allowed to repeat the judgment of unconstitutionality. This matter obliges the Court to reject the case because it took a decision in the same subject, whereas challenged text in another point stipulates in the last part of it on reducing the salaries of high-level posts by percentage of (40%) from the salary allocation. This part was corresponding to the decision of the Cabinet No. (282) for 2015, therefore, this text will form distinguish in salaries between high-level posts who works in the ICR and high-level posts who works in the Presidency of the Cabinet. Therefore, the Court finds that the last part of challenge text of the law (challenge subject) is violating the text of article (14) of the Constitution which stipulated (Iraqis are

equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status). This article obliges the Court to judge by unconstitutionality of the last part from the aforementioned article and for the reasons above-mentioned which related to high-level posts in the ICR. 5. As for challenge listed on the article (57/5th) of general budget law for 2018 which stipulates (the Ministry of finance has to adopt the personnel of the ICR which approved by the ICR and according to the following table). This regarded a new text enacted by the ICR and obliges the government to adopt the personnel of the ICR which shown in the table without present it to the Cabinet, and it didn't get approved by the Cabinet or the Ministry of finance. The FSC finds that enacting the ICR for this text without coordination with the executive power or approval from the government, in correspondence with the unity of personnel in the three powers before approving it. This matter regarded a violation to the article (14) of the Constitution and article (61/1st and 2nd) of it because it will produce distinguish between the personnel of the three powers without substantiation in the Constitution. It is required to judge by unconstitutionality of article (57/5th) text. 6. As for challenge listed on the article (57/6th) of the law (challenge subject) which considered a new text added by the ICR to the bill of the budget law for 2018. According to this text, the ICR will be granted the authority of issuing the instructions of executing provisions of article (57) of the budget law (challenge subject). The FSC finds that challenge text had determined the ICR the authority of issuing instructions to execute article (57) of general budget law for 2018 which concerns the ICR, therefore, the text is corresponding to provisions of article (61/1st) of the Constitution and it doesn't contradict with its provisions. It is required to reject the challenge in this concern. 7. As for challenge listed on article (58/1st/beh, 3rd) of the law (challenge subject) which considered a new text enacted by the ICR, and it includes allocating of a new amount added to expenditure chapters in the budget while it wasn't stipulated in the general budget bill which approved by the Cabinet. This text stipulates on allocating an amount for the budget of the Higher Judicial Council for the fiscal year 2018 in clause (beh) of it, and this budget divided for current and investment expenditures according to the table stipulated in above-

mentioned in (3rd) of the article (challenge subject). Whereas the ICR added the aforementioned text on the general budget bill for 2018 without approval from the government or taking its opinion. Therefore, this text is violating the text of the article (62/2nd) of the Constitution and it trespassed the authorities of the ICR stipulated in the Constitution because it increased the total of allocated amounts without proposing this matter on the Cabinet, and it burdened the State's treasury additional financial burdens. The FSC finds that the aforementioned text is violating the Constitution. Its enacting led to increasing financial burdens of the State's treasury without taking approval or opinion of the government in this concern. Therefore, it is violating article (62/2nd) of the Constitution. It is required to reject its unconstitutionality. 8. As for challenge listed on article (59/1st) of general budget law for 2018 (the budget of higher commission of human rights) which stipulates (first: an amount of (25.667.290.000) Iraqi dinars (twenty-five billion and six hundred seventy-six million and ninety thousand Iraqi dinars) shall be allocated for the budget of higher commission of human rights, and is divided as following: alif- an amount of (326.511.000) Iraqi dinars (three hundred sixty-two million and five hundred eleven thousand Iraqi dinars) for investment budget. Beh- an amount of (25.340.779.000) dinars (twenty-five billion and three hundred forty million and seven hundred seventy-nine thousand Iraqi dinars) for the expenditures of the current budget according to the table stipulated in the aforementioned article. The FSC finds that the ICR had added this text to the bill of federal budget law for 2018 without taking approval from the government, and it obliged the personnel of Higher commission of human rights for the fiscal year 2018 according to that table stipulated in clause (2nd) of article (59) which is challenged for unconstitutionality. Whereas this text wasn't presented to the Cabinet to take its approval and the approval of the Ministry of finance, adding this text will add other financial burdens. Therefore, the FSC finds that adding this text to unconstitutional challenged text above-mentioned on the budget bill had violated the article (62/2nd) of the Constitution. This matter requires to judge by unconstitutionality of this text. Accordingly, the FSC decided the following: 1. to judge by rejecting the case of the plaintiff/ being in this capacity for the challenged article (2/1st/3/alif) of general budget law for 2018 for incompetence, and for reasons

mentioned above. 2. To judge by rejecting the case of the plaintiff for unconstitutional challenged articles (57/2nd) of the law (challenge subject) for the part that concerns reducing salary allocations for the Presidency of the ICR and its members because the Court has a previous decision in the case No. (57/federal/2018) on (3.6.2018), and to reject the case on article (57/6th) because the challenging text is corresponding to the Constitution and not contradicts with its provisions. 3. To judge by unconstitutionality of article (57/2nd) of federal budget law, and the last part of the article (57/2nd) which related to reducing the salaries of private posts and the last part of the article (2/2nd/19) which related to the necessity of the ICR approval on sovereign guarantees. As well as articles (57/5th) and (58/1st/beh, 3rd) and (59/1st) of federal budget law for 2018, and to annul it for the reasons listed towards each one of articles above-mentioned, also to burden the case parties the proportional expenses and to burden the plaintiff/ being in this capacity the advocacy fees for the agents of the defendant amount of (one hundred thousand Iraqi dinars), and to be divided between them according to the law. With burdening the defendant/ being in this capacity the advocacy fees for the agent of the plaintiff the legal consultant assistant (ha.mim.sin) amount of (one hundred thousand Iraqi dinars). The decision has been issued unanimously and decisively according to article (94) of the Republic of Iraq Constitution for 2005, and article (5/2nd) of the FSC's law No. (30) For 2005. The decision has been made clear on 10.7.2018.