

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.86 /federal/media/2016



Kurdish text

The Federal Supreme Court has been convened on 7/3/2016, 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-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, and Hussein Abbas Abu Al-Temman, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: the representative (Mim.Ra.Dhad) his agents the barristers Dr.(Jim.Ha.Dhad) and (Alif.Sad.Ha).

The Defendant: The head of Salah AL-Deen governorate. / being in this capacity.

The Claim:

The two agents of the plaintiff have claimed that the council of Salah AL-Deen and on the session No. (19) Which met on (30/8/2016). The council issued its letter No. (3889) on (6/9/2016), the letter included a decision of approval on the report of the security committee head at the council of the governorate which included deporting the families that one of its persons has joined the criminal gangs of ISIS, also all persons who conformed or supported the suspected members as members of ISIS terrorist regulation to another governorate. the prosecution sees that decision has a violation for the Constitution especially the article (15) from it, which guaranteed to each person the right to live in liberty and security also the article (17) which relates to the sanctity of the homes as well as the article (19/ item 2nd)

which devoted the rule (There is no crime or punishment except by law) also the article (44 and 46) from the Constitution which related to the freedom of movement and the prohibition of practicing any rights or liberties, lastly the article (32) for which relates to that the Private property is protected, the prosecution sees that the challenged decision has a violation for the four Geneva convention for 1949 which relates to the forced deportations, and the article (7) from the basic regulation of the international court of criminal which considered the forced deportations and the forced movement as a crime against the humanity so the plaintiff requests from the court to decide the unconstitutionality of the decision and to annul the decision of the governorate's council that was issued on (6/9/2017).

after the case registration and the completion of the required procedures, the court selected the day (7/3/2017) as a date for the argument, and the court convened on that day, so their agents attended and the two agents of the plaintiff repeated his previous requests and sayings and requested from the court to decide according to it, the defendant's agent/ being in this capacity- answered that the decision subject of the case which was issued from the council of Salah AL-Deen governorate annulled by the clause (5) from the decision of the governorate's council that approved in the minutes of the session of the day (29/11/2016) No. (6308), and after the initiation of the case, so the case has no more substantiation from the law after the annulment of the decision according to the holy verse (and no bearer of burdens will bear a burden of another), and he requested from the court the rejection of the case, the two parties repeated their sayings, and whereas nothing is left to say, the end of the argument had been understood and the decision was understood publicly.

The Decision:

During the scrutiny and deliberation by the FSC, the court found that the two agents of the plaintiff claimed that the council of Salah AL-Deen governorates and on the session No.(9) which convened on (30/8/2016) issued its letter No.(3889) on (6/9/2016), and it included a decision of approval on the report of the security committee head at the council of the governorate which included deporting the families that one of its persons has joined the

criminal gangs of ISIS also all persons who conformed or supported the suspected members as members of ISIS terrorist regulation to another governorate. The prosecution sees that the decision has a violation for the Constitution. The agent of the defendant/ being in this capacity- plead that the decision was annulled by the clause (5) from the decision of the governorate's council that approved in the minutes of the session of the day (29/11/2016) No. (6308) that showed to the court, and the plaintiff had been notified by this letter and the record, and the case has no more substantiation from the law after the annulment of the law according to the holy verse (and no bearer of burdens will bear a burden of another), the annulment of the decision was after the initiation of the case. After the reviewing of the plaintiff's agent on the decision, he made clear that he has no comment. From scrutiny, the court found that the challenged decision by its unconstitutionality has no more effect after its annulment by the defendant/ being in this capacity, based on this the case has no more legal substantiation, so the court decided to reject the case of the plaintiff the representative (Mim.Ra.Jim) and to burden the defendant / being in this capacity- all the expenses and fees of the two agents of the plaintiff amount of hundred thousand Iraqi dinars divided between them, considering the annulment of the challenged decision was after the initiation of the case, the court issued the decision unanimously and decisive, and was understood publicly on 7/3/2019.