



The Federal Supreme Court (F S C) has been convened on 10.30.2017 headed by the Judge Madhat Al-mahmood and membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Mohammed Qasim AL-Janabi, Mohammed Saib Al-Nagshabandi, Aboud Salih Al-Temimi, Mikael Shamshon Qas Georges and Hussein Abbas Abu Altemmen who authorized in the name of the people to judge and they made the following decision:

Plaintiff: the general secretary of AL-Wafaa Iraqi national party/ being in this capacity – his agents the barristers (alif.feh.ain) & (ain.ka.ain.beh).

Defendants: 1- Speaker of the ICR / being in this capacity – his agent the legal official as a general director post (sin.ta.yeh) & the legal assistant consultant (heh.mim.sin).

2- The Prime Minister/ being in this capacity – his agent the legal assistant consultant (heh.sad).

Claim

The agent of the plaintiff claimed, that the constitution was approved by the legislative power and regarded valid after publishing it in the gazette and forming the government on 5.20.2006. And the defendants has violated the constitution texts, especially articles (60/1st) & (61/1st) & (80/2nd) of the constitution. The constitutional violation as he pretended is the intended negligence to implementing article (18) clause fourth of the constitution which stipulates on (an Iraqi may have multiple citizenships. Everyone who assumes a senior, security or sovereign position must abandon any other acquired citizenship. This shall be regulated by law). The purpose of enacting this article is to guarantees the loyalty of the responsible to admit his homeland (Iraq) and Non-duplication in loyalty and keeping the privileges and the characteristics of the acquired citizenship which may give the space to

the corruptors and evasion from legal responsibility, and not approving or activating double citizenship acquirers according to article (18) which may give the space to many responsible to return to the countries they acquired its citizenship. This matter will lose the opportunity for the judiciary from suiting them or arrest them or extradition the fugitive of them. In spite of eleven years were passed, this law was not enacted. The agent of the plaintiff called upon the defendants and obliges them to implement provisions of article (18/4th) with a determined time limit to enact double citizenship acquirers' law. The defendants were notified with the case; therefore, the first defendant/ being in this capacity answered with his draft dated on 9.26.2017 which includes that the case is out of the FSC competence which stipulated on in article (93) of the constitution which draw the mechanism of enacting laws according to article (60) of the constitution, clarifying that the bills presents by the President of the Republic or the cabinet and the laws' suggestions presents by ten members of the ICR. The agent of the first defendant requested to reject the case, and the agent of the second defendant answered with his draft dated on 9.25.2017 as a reply on the plaintiff claim which he listed in, that he requests from his client to implement article (18/4) of the constitution, and obliges his client to enact double citizenship acquirers' law, and he made clear that implementing the aforementioned article requires issuing a law to regulate the aforementioned matter. The bill was prepared and approving it or not subject to the voting of the ICR, as well as, is not a competence of the Prime Minister to assign the senior of sovereign and security positions, but he names the members of his government and recommend to approve on assigning the security and sovereign positions. And assigning seniors of security and sovereign positions is a competence of the ICR, so, it has the right of approval of this nomination and assigning those or rejecting the assignment if they did not fulfilled the conditions which the constitution required, and he requested to reject the case for Non-adversarial against his client the Prime Minister/ being in this capacity. Based the court's commissioning to the agent of the first defendant, so, he answered with his draft dated on 10.22.2017 that the bill of double citizenship acquirers received by the council on 8.14.2013 from the Ministry of the state for ICR affairs. The bill was red in session No. (7) On 2.6.2016 as a second reading, and sent back to the specialized committee and were not presented for

third reading and voting till now. And he repeated his defends with Non-specialty because this is a regulatory matter which the ICR is specialized with, and he requested to reject the case. The agents of the plaintiff a draft dated on 10.30.2017 and the agent of the second defendant presented a draft on the same date. The agents of the plaintiff and the agents of first and the second defendants repeated their sayings. The court ended the pleading and issued the following decision publicly.

The decision

After scrutiny and deliberation by the FSC, the court found that the plaintiff the general secretary of AL-Wafaa Iraqi national party in addition to his tasks had challenged the intended negligence of the defendants/ being in this capacity of not enacting a law for double citizenship implementing provisions of clause (4th) of article (18) of the constitution and violated by that article (61/1st) of it. The plaintiff requested to obliges the defendants/ being in this capacity to implement provisions of clause (4th) of article (18) of Republic of Iraq constitution to enact double citizenship acquirers. The agents of the first defendant the Speaker of the ICR/ being in this capacity answered by requesting to reject the case, because taking a decision about it is out of the FSC specialty which stipulated on in article (93) of the constitution. As for the agent of the second defendant the Prime Minister/ being in this capacity, he answered that his client has fulfilled its commitments and prepared a bill concerns double citizenship acquirers which stipulated on in clause (4th) of article (18) of the constitution and presented it to the ICR on 8.14.2013, and it was red for the second time on 2.6.2016 and were not enacted till the present time. Accordingly, the FSC finds that the defendant the Prime Minister had fulfilled its constitutional commitment and presented the bill which is desired to be enacted according to article (80/2nd) of the constitution. As for the first defendant the Speaker of the ICR and requesting from the FSC to obliges him to enact the law in a determined time limit, this request has not a substantiation in the constitution which concern the competences of the FSC which determined in article (93) of the constitution, because this matter related to a regulatory matters concerns the ICR, in addition to its confliction with provisions of article (47) of the constitution which judge to separate between powers to what related to its specialties and tasks. Accordingly,

the FSC unanimously decided: first- reject the case against the second defendant the Prime Minister/ being in this capacity by executing his constitutional commitment. Second- reject the case against the first defendant the Speaker of the ICR/ being in this capacity for Non-competence. Third- to burden the plaintiff as he the general secretary of AL-Wafaa Iraqi national party the expenses and advocacy fees for the agents of the defendants amount of one hundred thousand Iraqi dinars divided between them according to the law. The decision issued decisively according to provisions of article (94) of the constitution and article (5) of FSC law No. (30) For 2005 and made clear on 10.30.2017.