

**IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL**

Republic of Iraq  
Federal Supreme Court  
Ref. 91/federal/media/ 2015



Kurdish text

---

The Federal Supreme Court (F.S.C.) has been convened on 24.11.2015 headed by the senior Judge Farooq Mohammed Al-Sami and the membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges, Ade Hateef Jabbar and Sulaiman Abd Allah Abd Alsamad who are authorized in the name of the people to judge and they made the following decision:

The plaintiff: (alif.ain.mim.nun.)/ being in this post-his agent the attorney (ain.ra.mim.ra.).

The defendant: the speaker of the Iraqi council of representative (I.C.R.)/ being in this post – his agents the legal officials (Sin.Ta. Yeh.) and (Heh.Mim.Sin.).

The third-party: the Prime minister/ being in this post – his agent the legal official (ghain.jim.dal.).

The third-party for inquiry: the president of the republic/ being in this post –his agent the chairman legal expert (feh.ain.jim.).

---

Federal Supreme Court - Iraq - Baghdad  
Tel – 009647706770419  
E-mail: [federalcourt\\_iraq@yahoo.com](mailto:federalcourt_iraq@yahoo.com)  
Mailbox- 55566

*Athraa*

## **The claim:**

The agent of the plaintiff claimed that the I.C.R. in its session No.(10) on 11/8/2015 issued a decision to approve the decision of the council of ministers issued in its session no.(307) on 9/8/2015 to abolish the post of his client the vice-president, as the decision has violated the constitutional provisions and the laws in force and the content of the political agreement that the government was formed according to it, he requested to judge the unconstitutionality of it and repeal it for the following reasons:

Iraq is a federal state the ruling regime in its republic, the constitution is the insurance for the Iraq unity and no law contradicts it shall be enacted, article (66) of the constitution stipulates the formation of the executive authority, and that the president shall have one or more vice-presidents to replace him when he is absent or when his post is vacant, the prime minister is not authorized to dismiss the vice-presidents for lacking the jurisdiction, and any exceeding on the constitution is considered null. The agent of the plaintiff requested to repeal and revoke the decision of abolishing the post of his client the vice-president for violating the constitution and the law, and to burden the defendant the expenses and the legal fees. The defendant/ being in this post was notified by the case petition and its documents, the court decided to introduce the president of the republic/ being in this post and the prime minister/ being in this post to inquire from them of what is necessary to take a decision in the lawsuit. The agent of the defendant responds to the case petition with the draft dated on 1/10/2015 which included that the prime minister has submitted the reform package in the exceptional session of the council of ministers on 19/8/2015 that the

mentioned council has approved it unanimously, the reform package stipulated in paragraph first clause (2) that (abolish the posts of the vice-presidents and the deputies of the prime minister immediately), the decision of the council of ministers indicates finally to the abolishment of the mentioned posts without depending on the approval of the I.C.R., the substantiation for the abolishment of these posts is the decision of the council of ministers of the immediate abolishment for the mentioned posts and not by the approval of the I.C.R., and it was implemented from the date of its issuance without suspending it until the approval of the I.C.R., therefore the lawsuit is not directed against his client which require to be rejected formally as the litigation should be directed to the prime minister. The agent of the third party the prime minister/ being in this post respond with the answering draft dated on 22/11/2015 stating that the lawsuit is out of the F.S.C. jurisdiction as the decision to be repealed is an administrative decision a jurisdiction of the Administrative Judicial court. The decision of the council of ministers No.(307) for 2015 to minimize the number of ministries and committees and abolish some posts to elevate the efficiency of the governmental work and to lower the expenses according to his jurisdiction stipulated in article (80) of the constitution, the I.C.R. jurisdiction that is stipulated in article (61) of the constitution authorized him to oversee the performance of the executive power, and the approval of the I.C.R. on the reform package including minimizing the executive body and abolishing some posts including the posts of the vice-presidents is authentic and constitutional practice, and requested to reject the lawsuit. In the session dated on 17/11/2015 the agent of the plaintiff repeated

his request and the agent of the defendant repeated what listed in the answering draft and requested to reject the case, the agent of the plaintiff requested to introduce the prime minister/ being in this post as litigation beside the defendant and to pay his fees, and asked for a delay to refer his client about the president of the republic/ being in this post, then he didn't request to introduce him as a litigant in the lawsuit in the session of 24/11/2015, the agents of the plaintiff, defendant, the third-party repeated their statements, the argument is closed and the decision is issued publicly.

### **The decision:**

During scrutiny and deliberation by the F.S.C. the court found that the plaintiff has challenged the decision of the I.C.R. issued in the session No.(10) on 11/8/2015 of approving the council of ministers' decision issued in the session No.(307) on 9/8/2015 of abolishing the post of his client the vice-president under the claim of violating the constitution and the laws in force and for the availability of the challenge conditions of the unconstitutionality of the mentioned decision, he requested in his case petition to repeal and revoke the decision of abolishing his client post the vice-president. From reviewing the lawsuit we found that the plaintiff has filed his lawsuit before this court as the vice-president/ being in this post, and as the third-party the prime minister/ being in this post has abolished that post immediately, the agent of the defendant/ being in this post confirmed that this abolish was not suspended until the approval of the I.C.R. but it was implemented immediately, according to that the plaintiff has lost his post capacity on the date

of issuing the decision of the council of ministers on 9/8/2015, therefore, the litigation, in this case, is not authentic nether for the defendant/ being in this post nor for the third-party the prime minister/ being in this post by the capacity he filed the lawsuit under it and listed it in the claim and in the request of introducing the third-party litigation interfering. As this case has lost it legal substantiation from the aspect of litigation, therefore, it is binding to be rejected, therefore the court decided to reject the plaintiff's case (alif.ain.mim.nun.) from the aspect of litigation, and to burden him the expenses and advocacy fees for the agent of the defendant and the agent of the third-party amount of (one hundred thousand) Iraqi dinars distributed on them equally, and to remove the third party the president of the republic/ being in this post who was introduced for inquiry, the decision was issued unanimously on 24/11/2015.