



The Federal Supreme Court (F S C) has been convened on 5.5.2014 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 Altemmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (Alif.Qaf.Alif) – his agent the barrister (Ha.Alif.Kha).
The Defendant: (Yeh.Nun).

The Claim

The plaintiff claimed that the defendant had obtained a judgment from the Sharjah Sharia Court numbered 67 of 2011, which became absolute and he initiated the case number 1623 of 2012, under which he requested to give the executive power of the Sharjah Sharia Court judgment and to include it in the Riyadh Agreement ratified by Law No. 110 in 6.4.1984 and because article (30) of this agreement stipulated that all contracting parties shall admit the judgments issued by the courts of any other contracting party in the cases stipulated in it, including the civil status cases. While the paragraph (3) of article (19) stipulates on the effectiveness of marriage law on divorce, separation, and disconnect at the time of divorce or the time of case initiating. The Iraqi law should be applied on both parties, as well as the article (14) of the civil law confirmed this matter. The judgment issued according to the Emirate law, contrariwise the article (130) of the civil law which considered the jurisdictions basis as a public order. While the article (25) of Riyadh agreement is a contrariwise the basis of the international jurisdiction and the public order. Moreover, the constitution had challenged its unconstitutionality and requested to annul it, in addition to amend the law No. (110) for 1984. The defendant was notified by the petition of the

case, and hadn't answer it. The Court called upon the both parties, and the agent of the plaintiff didn't attend who presented a request to postpone it because he was preoccupied by another case in Al-Basra, and the defendant didn't attend spite of she was notified. The public argument proceeded in their absence because the case is prepared to take a decision about it. The Court has ended the argument, and issued the following decision:

The decision

During scrutiny and deliberation by the FSC found that the plaintiff is challenging the unconstitutionality of article (25) of Riyadh agreement of judicial cooperation which approved by the Republic of Iraq by the law No. (110) for 1984, and he initiated the case against his ex-wife the defendant (Yeh.Nun) which obtained a judgment from Sharjah sharia court. Whereas the defendant is not valid to become a litigant in the case which initiated before this court because it's not concerned by Riyadh agreement or approving it, and it's not concerned by annulling the challenged text because article (4) of the Civil Procedure Code No. (83) For 1969 stipulates (it is provided that the defendant should a litigant on the declaration of whom a judgment is released, supposing that a declaration is released by him. He should be sentenced or obliged to something, supposing that the case is approved). Therefore, the case shall be rejected for this reason. The court decided to reject the case of the plaintiff, and to burden him all the expenses. The decision has been issued unanimously on 5.5.2014.