

The In the name of god most gracious most merciful

Republic of Iraq  
Federal supreme court  
Ref. 148/federal/media/2017



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 26.2.2018 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, Aboud Salih Al-temimi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman and Mohammed Kassim Al-Genabi who authorized in the name of the people to judge and they made the following decision:

Plaintiff: (alif. nun. ain . zin) Secretary General of the Iraqi National Loyalty Party / being in this capacity his agent (alif. fa) .

Defendant: President of the House of Representation/ being in this capacity his agents the legal agents (sin. ta. yeh) and the assistant legal counsel (heh. mim. sin.).

### Claim

The plaintiff's agent claimed that under the authority granted by the people to the defendant, he abused the right granted through the legislation and enactment of laws violation to the text of article (13/2) of the constitution which states as (No law that contradicts this Constitution shall be enacted) . The plaintiff legislate the enactment of the law of the House of Representatives No. (50) for the year 2007 and law No. (28) for the year 2009 and the instructions issued under these, especially the articles (10/12/14/17/30) of the law No. (50) which sparked widespread public controversy and dissatisfaction . That the privileges granted to the members of the House of Representatives has moved away from the rules of the constitution and the Iraqi reality and produced a class advantage at the expense of the people, not to mention limited services in the electoral

session while continuing to enjoy part of the privileges after the end of (the election session for (4) years) , and include points violation to the constitution : 1-The amount of salary and pension rights exaggerated. 2- The costs of treatment inside and outside Iraq, where it became a burden on the federal budget, which is unique members to the rest of the people . 3- Housing allowance, improving living, buying cars, spending food, and buying clothes. 4- Power lines and the Internet outside his workplace. 5- The members of the protection who have been appointed by a member of Parliament and that the protection in the responsibility of the state and is sponsored by the presence of a specialized department within the staff of the Ministry of Interior (Directorate of Protection of the facilities and personalities) . 6- Diplomatic passports for him and his family and their continuation violation to the provisions of law No. (12) of 2004. For the above mentioned violations of the House of Representatives, the annual budget has been burdened with the amount of waste and the privilege of a small number of people with exaggerated benefits in violation of all the principles of social justice and international standards. Therefore, the plaintiff's agent challenges the constitutionality of the provisions contained in law No. (50) of 2007 and law No. (28) for the year 2009 concerning the privileges of the President and members of the House of Representatives , The honorable court is ordered to reduce the salaries to a reasonable extent and cancel the privileges and pensions and allocate land plots to those who do not own property within his hometown and the withdrawal of diplomatic passports and all other privileges after the end of the electoral session and determined by the end of service reward and charge the defendant all fees and expenses and fees lawyers . The defendant's agent responded to the petition by a written brief dated 28/12/2017 requesting the reject the case and burden the plaintiff costs and the expenses and advocacy fees for the agents because the plaintiff's agent listed seven points on the based on that they violated the constitution but did not show the constitutional texts that contradict with some of the rights listed in his list, so that the right to the constitutional text can be compared to indicate its compatibility or conflict with the text and the case from this side is unproductive and committed to its reject it indicating that some of the paragraphs included by the plaintiff in its list on the basic that it is the rights of members of the House of Representatives

is incorrect and baseless, including : A - The federal court has ruled that it is unconstitutional to grant members of the House of Representatives pensions in accordance with its decision No. (36 /federal/ 2014) and is now treated equal treatment of any eligible pension based on age and service . B - There are no members of the House of Representatives allocations for the purchase of cars and purchase of clothes and electricity lines and the Internet outside the workplace and the allocation of distinctive land in the capital . And the bonuses that have been disbursed to the members of the House of Representatives are ranked in the general budget of the state in accordance with the constitution and the law and funded by the government formally and has been reduced and the reward of the controls and controls what applies to salaries and bonuses Ministers, and that the members of the House of Representatives are not alone in the treatment outside Iraq and within it, where the procedures of the Ministry of Health follow the provision of the right to treatment inside and outside Iraq in accordance with legal contexts and the information of the plaintiff in this regard is incorrect and provide housing allocations to members of the House of Representatives or provide elements of protection for them or grant them and their relatives passports diplomacy is not contrary to the constitution and the plaintiff did not show the face of the violation of the constitution to ratify the arguments . The plaintiff's agent did not show the interest affecting and direct , in his legal, financial or social status in his case, and the direct , independent, direct damage to elements that may be removed if a judgment is rendered in this case In accordance with the requirements of article (6/1<sup>st</sup>) of the Internal system of the FSC No. (1) for the year 2005. Therefore, the defendant's agent requested to reject the claim with the plaintiff charging the fees and fees of the lawyer. The plaintiff's agent submitted written list dated (26/2/2018) In which he explained what was stated in his requests for a petition and asked for a judgment under it, with the claim that all the costs of the case and legal fees . After reviewing, the case was linked to file of the case and repeated each of the parties to the case his saying and previous requests And requested the judgment under it ,where and left what is said and it was understood the conclusion of the pleadings was made public .

### The decision

When checking and deliberation by FSC found that the plaintiff's agent challenged the unconstitutionality of the provisions contained in the law of the House of Representatives No.(50) for the year 2007 and also challenges law No.(28) for the year 2009 under the pretext of unconstitutionality of the reasons stated in his petition , and he is asking the FSC to decision the salary to a reasonable extent and canceling privileges and pensions and the abolition of the allocation of land to those who do not own property within the home town and withdrawal of diplomatic passports and all other privileges and cancel of service indemnity. The FSC finds that the jurisdiction of the FSC is defined in article (93) of the constitution of the Republic of Iraq 2005 and in article (4) of the law No. (30) of 2005 and not including the determination of the request of the plaintiff's agent of the above-mentioned requests, which will be the response of the case of lack of jurisdiction The FSC also finds that paragraph (heh) of article (38) of the unified retirement law No. (9) of 2014 has repealed article (1) of the law of the House of Representatives No. (50) of 2007 and is no longer in force. The FSC has also ruled by the decision of the judgment issued by the number (79 /federal / 2013) on 23/10/2013 unconstitutionality articles (3,4) of the law of the House of Representatives No. (50) for the year 2007 regarding the provisions contained in the provisions relating to the pensions of the Speaker of the House of Representatives and members of the House of Representatives for violating article (60/1<sup>st</sup>) of the constitution. As for the law No. (28) for the year 2009 on the privileges of the president and members of the House of Representatives, according to the plaintiff's agent claimed, this law has nothing to do with the issue of the case, but with regard to agricultural lending (law of box of lending agriculture soft lone) Issued on 13/12/2012 , therefore, the plaintiff's case must be rejected of article (1) of law No. (50) of 2007, the law of the House of Representatives for repealing it under the unified pension law No. (9) for the year 2014 and no longer in force. article (3) for the year 2007 In respect of the provisions contained in the provisions relating to the pensions of the President of the House of Representatives and members their previous decision took the same subject of the FSC under the ruling issued by the above referred to their previous decision took the same subject and for

reasons advanced the FSC decided to reject the plaintiff's agent on the lack of jurisdiction as well as for the reasons referred to above with the plaintiff charging the costs of the case and the legal fees of the plaintiff's agent amount of one hundred thousand dinars distributed according to the law and issued the ruling in front of him and by agreement and understand publicly on 26/2/2018 .