



The Federal Supreme Court (F S C) has been convened on 2.12.2018 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 and Hussein Abbas Abu Al-Temmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Minister of Foreign affairs/ being in this capacity – his agent- the senior under secretary (nun.kha) and the jurist official (mim.mim.alif).

The Defendant: the Speaker of the ICR/ being in this capacity- his agents Director of the legal department (sin.ta.yeh) and the legal consultant assistant (heh.mi.sin).

The Claim

The agent of the plaintiff claimed that article (32/5th/jim) of Federal budget law for the fiscal year 2017 stipulated on ((stopping of contracting with domestic workers, and diminishing the number of those who exist in Embassies and Iraqi diplomatic missions with a percentage not less than (25) twenty five percent of total number of present workers, and to be satisfied with the minimum limit to managing necessary works)). The plaintiff was not satisfied of this article, therefore, his agent proposed to challenge it because clause (jim) of article (32/5th) was not listed including the Governmental bill of budget law for 2017, and it was added by the ICR without getting the Cabinet's approval, and it regarded includes the Federal budget expenses. Executing abovementioned article will produce negative sequences of the diplomatic missions' work abroad, because it will lead to pay a big financial compensations for the

domestic workers whom intends to finish their services. This matter will burden the Ministry to substitute the diminish which occurred in diplomatic missions cadre of domestic workers, and to transfer employees from the Ministry's center to these diplomatic missions which will cost the state a huge amounts. Therefore, this procedure will not achieve its purpose of reducing the costs. Accordingly, the agent of the plaintiff requested to ((judge by unconstitutionality of article (32/5th/jim) of Federal budget law for 2017 because it does not serve the public interest)). The agent of the Defendant/ being in this capacity answered the petition of the case as following: 1. The FSC according to article (93/1st) of the Constitution is competent to monitor the constitutionality of law and valid regulations. Whereas the plaintiff's request was intent on the Federal budget law which was executed and not valid anymore after the end of the fiscal year which is it back to. Therefore, the case of the plaintiff is out of the FSC competence, and this what Judiciary of the aforementioned Court settled on. 2. The ICR according to article (62/2nd) of the Constitution has the authority to make transaction between budget chapters and reducing its total amounts. The text (challenge subject) is includes the authorities of the ICR by reducing expenses, and this regarded a legislative choice does not violates the Constitution. Accordingly, the agents of the Defendant requested to reject the case. After registering this case according to provisions of clause (3rd) of article (1) of the FSC's bylaw No. (1) for 2005, and after completing required procedures according to clause (2nd) of article (2) from aforementioned bylaw. The day 2.12.2018 was set as a date to try the case, and on that day the Court had been convened. The agent of the plaintiff the Minister of Foreign affairs/ being in this capacity attended as well as the agents of the Defendant the Speaker of the ICR/ being in this capacity. The public in presence pleading proceeded, and the agent of the plaintiff repeated what listed in the petition of the case and he requested to judge according to it. The agents of the Defendant answered that they repeat what listed in their answering draft and requests to reject the case for the reasons which mentioned in aforementioned draft. The agent of the plaintiff presented an illustration draft dated on 2.12.2018, and the agents of the Defendant were notified with a

copy of it. The agent of the plaintiff added that the challenged text still valid. The agents of the Defendant commented that budget of 2017 was over by the end of the year, and the provisions which listed in its law are not valid anymore, so, they requested to reject the case. Whereas nothing left to be said, the end of the pleading made clear and the court issued the decision publicly.

The decision:

After scrutiny and deliberation by the FSC, the Court found that the plaintiff is challenging article (132/5th/jim) of Federal budget law for fiscal year 2017 numbered (44) for 2017 because mentioned clause was not listed includes the Governmental bill of budget law for 2017. This clause was added by the ICR without getting the Cabinet's approval, and this procedure had produced a negative sequences on the diplomatic missions' work abroad which shown in the petition of the case. Therefore, the plaintiff proposed to challenge article (132/5th/jim) abovementioned and requested to judge with its unconstitutionality because it does not serves public interest. The FSC finds that article (132/5th/jim) of Federal budget law for fiscal year 2017 was included law No. (44) for 2017 (Federal budget law of Republic of Iraq for fiscal year 2017), and it had been executed during aforementioned budget. Therefore, reviewing this challenge is out of the FSC competence which stipulated on in article (93/1st) of the constitution and article (5/2nd) of FSC law No. (30) for 2005 which is it (overseeing the constitutionality of laws and regulations in effect). Accordingly, the Court decided to reject the case for incompetence, and to burden the plaintiff/ being in this capacity the expenses and advocacy fees for the agent of the Defendant Director of the legal department (sin.ta.yeh) and the legal consultant assistant (heh.mi.sin) in aforementioned department amount of one hundred thousand Iraqi dinars. The decision issued decisively and unanimously according to provisions of article (94) of the Constitution, and article (5/2nd) of FSC law No. (30) for 2005 and made clear on 2.12.2018.