



The Federal Supreme Court (F S C) has been convened on 3.6.2018 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: the President of the Republic/ being in this capacity – his agent the Head of the Jurists in the Presidency of Republic divan (ghain.alif.alif).

The Defendant: the Speaker of the ICR / being in this capacity – his agents the jurist officials, the director (sin.ta.yeh) and the legal consultant assistant (ha.mim.sin).

The Claim

The agent of the plaintiff claimed before the FSC in the case No. (57/federal/2018) that the ICR on (3.3.2018) voted on the general federal budget law for the Republic of Iraq for 2018 which is published in the gazette on (2.4.2018). Because there are several constitutional violations in some texts of the budget law, the agent of the plaintiff requested from the FSC to regard the following legal texts as provisions violates the Republic of Iraq Constitution for 2005, and for the following reasons: 1. Item (3rd/beh) from the article (11) of the law granted the federal finance Minister the power of moving unnecessary employees from combined or cancelled Ministries to another Ministries and offices to fulfill their needs from employees. This text violates provisions of the article (86) of the Constitution, because forming Ministries, cancelling or

combining them shall be achieved with a law. 2. Item (3rd/jim) of the article (11) included retention of the Ministries and offices unassociated into a Ministry and the governorates by job titles produced from personnel movement which approved till (31.12.2016). Whereas article (61) of the budget law stipulates (the treasury shall not afford an additional financial burdens out of the law), and the job titles produced from personnel movement requires an allocations includes the budget of 2018, so the text is contradicts with the provision of another text. 3. In items (1st, 2nd, 3rd) of the article (13) of the law, we found that it amended many legislations which related to the general employment and pension. These items shall be included provisions of civil service law and the provisions of unified pension law. These amendments shall not be listed in the budget law. 4. The plaintiff claims that item (4th) of the article (13) has spent bonuses in the three Presidencies, Ministries, offices unassociated into a Ministry and the governorates except that which spent as salaries. The agent of the plaintiff in the argument dated on 28.5.2018 that he desires in his challenge to allow his client to grant bonuses to his staff others in occasions, and this matter was applied before enacting the text (challenge subject). 5. Item (5th) of the article (17) imposed a fine on liquors, and naming the term of (fine) which listed in this item violates the Constitution because the fine shall imposed as a punishment. 6. Item (6th) of the article (17) obliged imposing a tax on imported sweets, ice cream, dairy products, juices and fizzy drinks by percentage of (25%) of the imported goods value. This tax shall be collected in the borders. The term of (tax) is incorrect because the tax must be imposed on the net revenue, therefore it should be replaced by the word (fee) because it considered deducted percentage. 7. Item (1st) of the article (18) stipulated on granting Ministries, offices unassociated into a Ministry and all governorates the power of imposing fees. This matter regarded a violation to provisions of the article (28) of the Constitution which stipulated (no taxes or fees shall be levied, amended, collected, or exempted, except by law). 8. In the article (33) of the law listed that the Cabinet shall be granted the power of (re-forming the Ministries and combining its formations. Changing the office of its association and abolition these formations). Whereas that text of

article (86) of the Constitution is clear in formation of the Ministries, combining or abolition it shall not done but with the law of the Ministry or the office unassociated to a Ministry. Therefore, granting the Cabinet this right is not corresponding to the provisions of the Constitution. 9. Listing the text of item (2nd) of the article (36) of the law violates provisions of the article (62) of the Constitution which stipulated clearly on the power of the ICR when approving the general budget by making transfers and allocations, not to increase financial burdens and the total expenditures. This item will overstrain the budget regarding to the change of job titles according to the new job titles. 10. Text of items (3rd & 4th) of the article (38) of the law which related to cycling the contractors' dues and issuing treasury bonds to pay compensation dues are violating provisions of the article (62/2nd) of the Constitution. Cycling expenditures from previous budgets to the current one shall be paid, and cycling these dues without existence of allocations for it considered an additional allocations on the budget of 2018. This matter will increase the amounts of the deficit. 11. In items (alif) and (beh) of the article (42) of the law listed that (the federal monetary overseeing divan shall be continued in addition to the commission of integrity by scrutinizing spent financial dues for those included by political prisoners establishment law...). Whereas scrutinizing financial affairs is an exclusive specialty of monetary overseeing divan, and the duties of the integrity commissions are determined by its law No. (30) For 2011. Commissioning the duty of scrutiny to the commission of integrity violates provisions of the article (102) of the Constitution, and the commission of integrity law. 12. In the article (49) of the law listed authorizing the governor of Basra to move teacher whom has contracts with the governorate to the education directorate of Basra. This text violates provisions of the article (14) of the Constitution because limitation of authorizing Basra governor only not other governors is unjust and considered distinguishing between governorates. This power should be granted to all governors if there are similar cases. 13. The text of item (2nd) of the article (57) of the law which related to the budget of the ICR is contradicts with the constitutional principles of equality between all presidencies as for salaries and allowances. Distinguishing the

ICR from the other presidencies is incompatible with the principles that the Constitution stipulated on, and the ICR had to commit to this principle. 14. In the articles (4, 9, 10) of the budget law in the item related to the financial allowances of Kurdistan region, the following violations listed in: alif. Item (2nd) of the article (4) of the law indicated to authorizing the Ministers, Heads of offices unassociated to a Ministry and the governors including (the governors of Kurdistan region governorates the power of transaction between expenditure credits). The plaintiff says that the Constitution deals with the (government of Kurdistan region) and does not deal with the regions' governorates independently. In this case, listing governorates of Kurdistan region contradicts with the provisions of the articles (117, 120, 121) of the Constitution, because the region by its government and parliament is the authorized office to execute the budget and make transactions from its articles. Beh. Item (1st) of the article (9) of the budget law determines (the share of Kurdistan region from the actual total of expenditures which affirmed in the table (expenditures) which attached to this law according to the population of each governorate. These expenditures shall be paid by the federal Ministry of finance with approval from the Prime Minister, and this text as the plaintiff pretends is violating provisions of item (3rd) of the article (121) of the Constitution which stipulated (regions and governorates shall be allocated an equitable share of the national revenues sufficient to discharge their responsibilities and duties, but having regard to their resources, needs, and the percentage of their population). This mean the necessity of allocating the region's share from the budget according to the population of the region not the population of the governorates. Also conditioning paying the share of Kurdistan region with approval of the Prime Minister regarded a violation to the provisions of the article (14) of the Constitution, and it also violates provisions of financial administration and public debt law No. (95) For 2014. Whereas the other governorates weren't conditioning expending with approval from the Prime Minister. Jim. Item (2nd/beh) of the article (10) of the law included allocating a percentage of infantry forces for federal Iraqi army allocations to the Beshmerga forces according population percentage for aforementioned forces, as it considered a

part of the Iraqi security system. This item violates provisions of the article (121/5th) of the Constitution. While the amounts allocated to the Beshmerga should be dedicated similar to the other security forces which the allocation amounts already determined. Dal. Item (2nd/waw) of the article (10) of the law obliged the government of Kurdistan region to returns the amounts of the governorate of Kirkuk which collected from petrodollar and deposit in one of the public banks in the region to the account of the governorate. This obligation violates the provisions of item (8th) from the article (19) of the Constitution regarding that governorate of Kirkuk as a debtor is the body which opened this account in concerned bank, the government of Kurdistan has no relation to the financial problematic between the bank and the governorate. Heh. In the attached table the name of Kurdistan governorates listed individually, and this listing violates provisions of the article (121) of the Constitution which the central government deals with the government of Kurdistan not the governorates of the region for the above-mentioned reasons. Therefore, the plaintiff requested from the FSC to judge by unconstitutionality of the articles (11/3rd/beh, jim) and (13) and (17/5th) and (18/1st) and (33) and (36/2nd) and (38/3rd/4th) and (42/alif, beh) and (49) and (57/2nd) and (4/2nd) and (9/1st) and (10/2nd/ beh, waw) of the federal budget law for the Republic of Iraq for 2018 No. (9) For 2018, and to burden the defendant/ being in this capacity all the case's expenses and advocacy fees. The agent of the defendant answered the petition of the case with a written draft dated on (22.4.2018). He requested to reject the case with burdening the plaintiff/ being in this capacity all its expenses and advocacy fees and as following: 1. The agent of the plaintiff claimed in clause (1) of his draft that the article (11/3rd/beh) of the general budget law for 2018 had violated article (86) of the Constitution by granting the Minister of finance the right of moving unnecessary employees from combined or cancelled Ministries to another Ministries and offices to fulfill their need from employees. This matter depend on the rule that the formation of the Ministries, removing or combining it shall be achieved with law, and for this reason we clarify the following: in spite of that the plaintiff has no interest in challenging this text, and he won't be aggrieved of its implementation if implemented.

Therefore, his case must be rejected for this reason according to provisions of the article (6) of the FSC bylaw for 2005. Besides, challenged article didn't stipulate on formation, removing or combining the Ministries to make challenging constitutional in terms of the article (86) of the Constitution, but it stipulated on dealing with the unnecessary employees in these Ministries, removing or combining these Ministries was based on a decision from the Cabinet No. (307) for 2015. The ICR approved aforementioned decision according to its decision No. (15) For 2015 on (111.8.2018) (the plaintiff didn't challenge constitutionality of this decision before). Based on that, removing or combining some Ministries became fait accompli and the government and the ICR are compelled to dealing with the results produced from it. This will achieve employment stability for unnecessary employees and it also authorizes the government to achieve stability based on its responsibility in overseeing the work of the Ministries and offices unassociated to a Ministry according to provisions of the article (80/1st) of the Constitution. 2. The agent of the plaintiff indicated in the clause (2) of his draft that the article (11/3rd/jim) of the general budget law for 2018 had contradicted with the article (61) of the same law, we clarify: the plaintiff has no interest in challenging this text, and his challenge must be rejected for this reason according to the article (6) of the FSC bylaw No. (1) For 2005. The FSC is incompetent to try how contradiction of the legal texts between each other in one law, and it is competent to try the constitutionality of these texts. Claiming of the plaintiff that aforementioned text left the right of the Ministries and offices unassociated to a Ministry to keep the job titles produced from personnel movement till (13.12.2016) will cause a financial burdens on the budget. So, we reject his case of what the challenged text included of the phrase (the Cabinet shall issues an instructions in this concern. These instruction shall concentrate on actual need and specialty...). Therefore, the government is the office which will determine the instructions of how to execute the legal text (challenge subject) with what corresponds to the necessity of that from financial side. 3. The agent of the plaintiff sees in the clause (3) of his draft that the article (13/1st & 2nd & 3rd) of the general budget law for 2018 has amended several enactments

that related to the public employment and pension, and such texts should listed in the employment laws and pension in spite of that the plaintiff has no interest in challenging this text. The Court is incompetent in trying what kind of texts these laws should include or not. The Court is competent in trying on what some texts in these laws contradicts with the Constitution. Besides, the legislator strives to organize some employment affairs temporally, therefore it stipulates on this organizing in the budget law as it regarded ad temporal law. It lasts for one fiscal year. 4. What listed by the agent of the plaintiff in clause (4) of his draft that the article (13/4th) of the general budget law for 2018 had excluded bonuses which spent as salaries from the text, but prohibits bonuses on this base contradicts with civil service law, the state's employees and the general sector. We would like to clarify that the FSC is incompetent in trying it because there is a contradiction between the laws, but it trying its contradiction with the Constitution. 5. The agent of the plaintiff indicates in clause (5) of his draft that the article (17/5th) of the general budget law for 2018 had stipulated on the fine, and the fine imposed as a penalty. Therefore, this text violates the Constitution because the agent of the plaintiff didn't show the Constitutional text which the legal text intersects with, and to be able to prove his plea. For this reason, his plea in unproductive and the FSC is incompetent of trying how the legal vocabularies are conformed which used by the legislator when enacting laws. 6. The plaintiff clarified in the clause (6) of his draft that the article (17/6th) of the general budget law for 2018 had listed the term of (tax), and the correct is using the term (fee). We would like to clarify that the plaintiff has no interest in challenging this text, and he will not be aggrieved from executing it if executed. Therefore, his case must be rejected for this reason according to provisions of the article (6) of the FSC's bylaw for 2005. The FSC is incompetent to check the trueness of vocabularies which used by the legislator when he enacted laws. 7. The agent of the plaintiff indicates in clause (7) of his draft that the article (18) of the general budget law for 2018 which granted the power of imposing fees to the Ministries and office unassociated to a Ministry had violated the article (28) of the Constitution. This power relied on that the taxes and fees are not imposed, amended, collected or excepted but

with a law. So, we clarify that the legislator had committed to this constitutional restriction, and he also granted the Ministries, offices unassociated to a Ministry and the governorates the power of imposing fees according to the federal budget law for the fiscal year 2018. 8. The agent of the plaintiff indicates in the clause (8) of his draft that the article (33) of the general budget for 2018 granted the Cabinet the power of restructuring the Ministries, and changing the office of its association, as well as cancelling these formations. This matter violates the article (86) of the Constitution which inhibits this legislation but with a law. So, we also clarify that the legislator had took in considerations this constitutional stipulation, and he stipulated on this power for the Cabinet according to the federal general budget law for the fiscal year 2018. The budget law is a law with constitutional concept. 9. The agent of the plaintiff indicates in the clause (9) of his draft that the item (2nd) of the article (36) of challenged unconstitutional law is violating the article (62) of the Constitution, because it increases the financial burdens and exhaust the budget. We answer that the plaintiff has no interest in challenging this text, so his case must be rejected for this point according to the provisions of the article (6) of the FSC's bylaw No. (1) For 2005. The item (challenge subject) had clearly stipulated on (no financial liability may resulted retroactively or within 2018, and this deny the claim of increasing financial liabilities). 10. The agent of the plaintiff indicates in clause (10) of his draft that the items (3rd & 4th) of the article (38) of the law (challenge subject) stipulates on cycling the contractors' allowances, and issuing treasury bonds to pay it. Also cycling the displaced allowances for (2016) which produced from implementing provisions of the article (39) of the law (challenge subject). This matter violates the article (62) of the Constitution. The agent of the defendant answered that the constitutional article which alleged is violating it, didn't mention to inhibit cycling the contractors' allowances, or to issuing treasury bonds and not to cycling deposits. It was necessary to make – objection productive- to clarify how the shape of contradiction with the constitutional text in details, not indicates to a general constitutional text without specifying what was generalized, or summarizing what totalizes. The origin of the item (3rd) of the article (38) of the law (challenge

subject) was listed in the bill of the general budget law which sent to the Cabinet, and specifically in the article (44/3rd) of the bill and the government is responsible of the financial policy and executing it. The government also knows very well how to resolve the contractors' allowances, and the objection of the agent of the plaintiff on item (4th) of the article (38) of the law (challenge subject) is inappropriate, because the text had listed clearly the phrase (displaced allowances... which saved as deposits). This means that the amounts are available since 2016 and saved as deposits and the government had been provisioned these amounts, then it saved it as deposits. So, how did the plaintiff found that this text had burdens the treasury shoulders? 11. The agent of the plaintiff indicates in the clause (11) of his draft that what listed in the items (alif, beh) of the article (42) of the law (challenge subject) from assigning the commission of integrity to scrutinize the spent financial allowances for those included by the political prisoners establishment is violating the duties of integrity commission which determined according to its law No. (30) For 2011 and the article (102) of the Constitution. The agent of the defendant that the plaintiff has no interest to challenge this text, and he will not be aggrieved from implementing it if implemented. Therefore, his case must be rejected according to the article (6) of the FSC's bylaw No. (1) For 2005, and the article (102) of the Constitution had not been violated, whereas it didn't stipulate on the commission of integrity duties and inhibit adding any other new duty to it which may support the claim of the plaintiff. All what constitutional article stipulated is (the High Commission for Human Rights, the Independent Electoral Commission, and the Commission on Public Integrity are considered independent commissions subject to monitoring by the Council of Representatives, and their functions shall be regulated by law). This text is general, and doesn't support what the plaintiff claims. On the contrary, the article (challenge subject) had corresponding to the constitutional text, whereas it commissioned the commission of integrity a commitment according to a law as the Constitution requires which is it the budget law. The text (challenge subject) represent a legislative will corresponding to the Constitution, and the Council souk the association of monitory office to scrutinize an

important financial dossier, and unveil any suspicion of corruption.

12. The agent of the plaintiff indicates in clause (12) of his draft that the article (49) of the law (challenge subject) which authorized the Governor of Basra to move the teachers and tutors whom contracted with the governorate to the directorate of education in Basra, and this matter violates the article (14) of the Constitution as it considered differentiation between governorates. This power should be given to all Governors. The agent of the defendant answers that this text is related to teachers and tutors whom their contracts are financed from the budget of (petrodollar) and this matter is an exclusive power for governorates which produce oil and foremost the governorate of (Basra), and it doesn't includes the other governorates. Therefore, it is not a distinguishing between the governorates to approve a regulatory issues which concern these governorates only. The text (challenge subject) represent a legislative will for the ICR and it includes a regulatory order which doesn't increases the costs and the financial burdens, whereas it decided to move teachers and tutors whom contracted with the governorate of Basra to the directorate of education in the governorate, and there is no reason to object it.

13. The agent of the plaintiff indicates in clause (13) of his draft that the article (57/2nd) of the law (challenge subject) which reduced the salaries and allowances of the Presidency of the ICR, its members and employees had violated the Constitution when it trespassed the principle of equality which approved by the Constitution in indirect reference to the desire of the plaintiff's agent to implement the Cabinet's decision No. (333) for 2015 instead of the decision (282) for the same year. We clarify that the decision (333) distinguish between those included with its provisions depending on academic attainment and the social status, but the ICR has a privacy is not a secret for the honorable FSC. The members of the ICR are equal in their affairs, and the Constitution equalized between them as they are representing the people and every one thousand Iraqi citizen represented by a representative. All the representatives are doing one job, and no distinguish between them in the job assigned to the ICR and the vote from any member of the Council's members is equal to the other votes of all members without distinguishing. Therefore, it is not fair to count what they earns from allowances

and bonuses depending on their academic attainment for each one of them and the other affairs. This will lead to inequality between the Council's members in spite of inequality of their circumstances, and this was the base of distinguishing the ICR from the other Presidencies according to the text (challenge subject). 14. The agent of the plaintiff indicates in clause (14/alif) of his draft that the article (4/2nd) of the law (challenge subject) had authorized the Governors including (the Governors of Kurdistan governorates...), and the Constitution deals with (Kurdistan region government) not the region's governorates independently. This matter contradicts with the articles (117, 120, 121) of the Constitution depending on that the region by its government and parliament is the authorized office to execute the budget or making transactions between its items. The agent of the defendant answers that quotation of the agent of the plaintiff for challenged text is inaccurate, whereas the phrase he listed in his draft (Governors of Kurdistan governorates) while the phrase in the valid law is (Governors of Kurdistan region governorates). In this case the legislator had indicated to the region clearly. The legislator's will had directed in the article (4/alif) to grant the Governors the power of making transaction in specific limits includes their governorates budgets, and the legislator didn't intended to deprive the Governors of Kurdistan region from this power. This mean he will violates the principle of equality which the Constitution stipulated, and the articles (117, 120, 121) of the Constitution had admitted the existence of Kurdistan region and dealing with this base. Also it didn't mention the article (4/alif) of the law (challenge subject) and not any other article by this constitutional admission, and it can't depend on a text in the budget law for 2018 for (Kurdistan region) in many of its texts. The law shall correspond to the Constitution, or it will be unconstitutional and if the Constitution inhibited dealing with the governorates that forms regions, the legislator wouldn't be able to object it. He rejected that because the Constitution didn't include it, especially the articles which the agent of the plaintiff indicated to. The governorates of Kurdistan region are legal existing entities, and it enjoys the juristic personality as well as considerable financial liability. Therefore, it is valid to deal with it by the State's offices without violation to the juristic personality and constitutional

consideration of the region, and the article (4/alif) of the law (challenge subject) weren't including what inhibits the Governors of Kurdistan region from coordination with the region's government and its parliament when executing the legal text or any other text. Whereas it considered a regulatory order which doesn't violates the constitutional rights and the constitutional position which guaranteed by the Constitution for the region. 15. The agent of the plaintiff indicates in the clause (4/beh) of his draft that the article (9/1st) of the law (challenge subject) had determined the region's share according to the population of each governorate, and this matter violates the article (121/3rd) of the Constitution which indicates to that dedicating a fair share of federal revenues must rely on the population percentage in the region not the governorates. Conditioning of the Prime Minister approval to pay the region's share violates the article (14) of the Constitution, financial administration law and general debt No. (95) For 2014. Whereas the text didn't condition the approval of the Cabinet to expend the governorates shares, while it conditioned the approval to expend the region's share. The agent of the defendant answers that the article (9/1st) of the law (challenge subject) had clearly stipulated (Kurdistan region share shall be determined from the total expenses... according to population of each governorate), therefore the text had clarify the office who deserve the region's share by (Kurdistan region) not (the region's governorates). The data of the federal Ministry of trade and Ministry of planning includes the population of the Republic of Iraq according to its governorates, and if the legislator conditioned expending the region's share according to the region's population, it will not be able to execute the text because there is no data with this title. This matter is what the legislator took in his considerations in the text he listed, and conditioning the approval of the Prime Minister on paying the Kurdistan region share is restricted on (governing expenditures) only. The legislator respected in this matter the privacy of Kurdistan region, and the necessity of launching aforementioned share by the highest executive principal in the central government which guarantees providing it to the region. As for Non-requirement the approval of the other governorates, it is referred to that these governorates are financed centrally,

depending on administrative decentralization. This will guarantee its expending from the center directly according to the governorates population, and conditioning the approval of the Prime Minister on expending the governor expenses is not a new text, the article (8/1st) of the federal budget law for the fiscal year 2017 included it. The plaintiff approved the law in that time with no objection by depending on approval conditioning. 16. The agent of the plaintiff indicates in the clause (14/jim) of his draft that the article (10/2nd/beh) of the law (challenge subject) had dedicated a percentage of land forces allocations to Beshmerga forces according to population percentage for aforementioned forces. This matter contradicts with the article (121/5th) of the Constitution, so we say that the constitutional article didn't inhibit the calculation of these forces allocations by depending on population percentage. 17. The agent of the plaintiff indicates in the clause (14/dal) of his draft that the article (10/2nd) of the law (challenge subject) had obliged the government of Kurdistan region to refund the amounts of Kirkuk governorate which collected from petrodollar and deposited in a civil bank in the region, and for account of the governorate. This clause violates the article (19/8th) of the Constitution, and he answers that the constitutional article which pretended it violates the Constitution stipulates (punishment shall be personal), as it is common that the text (challenge subject) weren't including Non-personal punishment, but it included a financial procedure that the legislator headed to approve and the FSC is incompetent to trying the aforementioned objection because it regarded a pure bank affair, and it could be solved with concerned government and bank offices. He requested to reject the case with burdening the plaintiff its expenses and advocacy fees. The Court set date for argument 28.5.2018 to try the case, the agent of the plaintiff and the agents of the defendant attended according to their power of attorney which attached to the file of the case. The public in presence argument proceeded, the agent of the plaintiff repeated what listed in the petition of the case and he requested to judge according to it, with burdening the defendant the expenses and advocacy fees. He added that what he meant by challenging the article (13/4th) of the budget law is the power to expend bonuses which prohibited from his client, and he requests to reactivate it.

He presented a draft dated on 27.5.2018, and he requested in this draft to replace the foreign digits with the Arabic ones in the answering draft of the defendant. The agents of the defendant/ being in this capacity agreed on that. The agents of the defendant repeated what listed in the answering draft on the petition of the case, and they requested to judge according to it, with burdening the plaintiff all the expenses and fees. For scrutiny, the argument was postponed till 3.6.2018 whereas the agents of both parties attended. Whereas the case completed all its reasons, and the agents of both parties repeated their sayings and previous requests and requested to judge according to it. The end of the argument was made clear, and the decision issued publicly.

The Decision

After scrutiny and deliberation by the FSC, the Court found that the agent of the plaintiff/ being in this capacity challenging unconstitutionality of the articles (11/3rd/beh.jim) and the article (13) and the article (17/5th) and the article (18/1st) and the article (33) and the article (36/2nd after the decision correction request) and the article (38/3rd/4th) after correction request and the article (42/alif,beh) and the article (49) and (57/2nd) and the article (4/2nd) and the article (9/1st) and the article (10/2nd/beh,waw) of the federal budget law for the Republic of Iraq for 2018 (law No. (9) For 2018). He claimed that aforementioned articles are violating the Constitution of the Republic of Iraq for 2005, and after scrutiny the Court reached the following decision according to the challenges series which considered unconstitutional by the claim of the plaintiff. These articles are: 1. (the article/11/3rd/beh), after returning to it, the Court found it stipulated (federal finance Minister has the power of moving unnecessary employees from combined or cancelled Ministries to another Ministries and offices to fulfill their need from employees). The FSC finds that the article (challenge subject) didn't stipulates on forming, cancelling or combining the Ministries to make challenging of its unconstitutionality valid according to the article (86) of the Constitution, but it stipulated on deals with the unnecessary employees in these Ministries. As well as combining the Ministries became fait accompli according to the Cabinet's decision No. (307)

for 2015 which approved by the ICR's decision No. (15) For 2015 (the plaintiff didn't challenge the constitutionality of this decision before). This matter produced the necessity of authorizing the government by what achieve stability for unnecessary employees, and authorizing the government to achieve this by depending on its responsibilities in overseeing the work of the Ministries and offices unassociated to a Ministry according to provisions of the article (80/1st) of the Constitution. Moving the employee from a Ministry to another doesn't considered a forming of a new Ministry, or cancelling another Ministry. Therefore, challenged text in this law doesn't violates the Constitution and not contradicts with its provisions. It must be rejected for this reason. 2. The article (11/3rd/jim) of the law (challenge subject) found it stipulates (retention of the Ministries and offices unassociated to a Ministry and the governorates by job titles produced from personnel movement which approved till (31.12.2016). Concerned Minister of the governor has the power of issuing an appointment order with these job titles to fill the vacancies in the governorates, and the Cabinet shall issues an instructions in this concern which concentrate on actual need and profession. The priority is for pensioners according to seniority, if they were includes required profession). Whereas the government is the office which will determines according to an instructions the procedures of enforcing the legal text (challenge subject) with what corresponds to the financial requirements. This is what clause which pretended is violating the article (61) of the law obliged. The FSC finds that its jurisdictions are determined in the article (93) of the Constitution, and in the article (4) of its law No. (30) For 2005, not among these jurisdictions is trying how the legal texts are contradicts with each other in one law. This require rejecting the challenge for incompetence. 3. The article (13/1st, 2nd and 3rd) of the law No. (9) For 2018, the federal budget law for the Republic of Iraq for 2018. The article (13/1st) stipulated (not to appoint any leading employments (director general and above) if there isn't a step for this post in the law of the Ministry, office unassociated to a Ministry, or the instructions of occupying a post). The FSC finds that its jurisdictions are determined in the article (93) of the Constitution, and the article (4) of the FSC's law No. (30) For

2005. Not among these jurisdictions is trying what texts in the laws should include, while the FSC jurisdiction is trying what texts in these laws that contradicts with the Constitution. Whereas the challenge subject doesn't forms a constitutional violation, but it related to a regulatory affair. Therefore, it must be rejected for incompetence. 4. The article (13/4th) (challenge subject) which adjudge by ceasing the bonuses expending in the three Presidencies, Ministries, offices unassociated to a Ministry and governorates except the bonuses which expended as salaries. The agent of the plaintiff/ being in this capacity clarified in the argument session dated on 28.5.2018 that he wants by this challenge to retrieve the power of his client to expend bonuses for persons and occasions just like before. The FSC finds that the text (challenge subject) came as a legislative choice, and doesn't contains any violation to a text in the Constitution, so it must be rejected for this reason. 5. As for challenge which listed about unconstitutionality of the article (17/5th) of the general budget law for 2018, this article adjudged by imposing a (fine) on liquors with a percentage of 200 % two hundred percent from the value of imported liquors. The FSC adjudged in the judgment issued in the case No. (62/federal/2018 in the session dated on 28.5.2018 by unconstitutionality of the text (challenge subject) for the reasons mentioned in that judgment, therefore, trying unconstitutionality of this subject again in the case (57/federal/2018) is illegal because the judgment issued decisive and binding according to the article (94) of the Constitution, and the article (5) of the FSC's law No. (30) For 2005. The challenge about its unconstitutionality must not be repeated. 6. As for the text of the article (18/1st) of the federal general budget law for 2018 which is challenged for unconstitutionality, whereas it stipulated (Ministries, offices unassociated into a Ministry and all governorates has the power of imposing fees, new services wages, amending the fees and the present services wages, except the sovereign fees (which approved by the valid federal laws according to the regulations issued by concerned Minister, Head of the office unassociated to a Ministry or the governor). The FSC finds that challenged text doesn't violates the article (28) of the Constitution, on the contrary it corresponds to the provision of aforementioned article (28) of the

Constitution. The legislator committed to it when he allowed by challenged text the Ministries, offices unassociated to a Ministry and the governorates to impose the fees according to the federal budget law for the fiscal year 2018, this law issued from legislative authority and it includes a legislative authorization for the titles mentioned in it to proceed what the text (challenge subject) stipulated on. Therefore, challenging aforementioned text is illegally unconstitutional, this require rejecting it because it doesn't contradicts with the Constitution, and correspond to its provisions.

7. As for the text of the article (33) of the law (challenge subject) which stipulated (the Cabinet according to a proposal from the Prime Minister shall restructuring the existent Ministries by combining its formations, including its general companies with existent offices. Or changing the offices of its association, determining its tasks or cancelling these formations). The FSC finds that the legislator had committed to the text of the article (86) of the Constitution, and he granted the power to the Cabinet to restructuring the existent Ministries by combining its formations including its general companies with existent offices, changing the offices of its association or moving it, determining its tasks or cancelling these formations according to the federal budget law for 2018 according to unconstitutional challenged article No. (33) Of the budget law. Therefore, challenged article is corresponding with Constitution's provisions and doesn't contradicts with it, and it was rejected by a law issued according to the legislative contexts. This matter require to reject the challenge against it because it doesn't rely on any reason in the Constitution.

8. The article (36/2nd), after correction request from the agent of the plaintiff, which stipulates (the job title for employee who has a higher certificate or similar during the service which correspond with the nature of his work may accelerated, and with approval of his office to complete his study every two years starting from the date he attained the certificate. He can preserve his job step and level when he present the request to change his job title, and this matter is an exception from the law No. (103) for 2012. The provisions of this article is in force on employees whom were demoted before the validity of this law, and no financial sequences should be added retroactively or within 2018. This matter shall be scrutinized by the federal

monetary overseeing divan). The FSC finds that unconstitutional challenged text doesn't violate the provisions of the Constitution as long as it doesn't produce any financial sequences retroactively or within 2018. It was enacted by the legislative office according to its powers stipulated in the article (61/1st) of the Constitution. The challenge must be rejected because it doesn't rely on any substantiation from the Constitution. 9. As for challenge listed on the text of article (38/4th & 4th) of the law, after correction request which is challenged for unconstitutionality. Whereas the article (38/3rd) of the law (challenge subject) stipulated (cycling the contractors' dues which weren't financed in the fiscal year 2017, and it shall be refunded by treasury bonds issued for this purpose). The article (38/4th) stipulated (cycling the displaced allowances for (2016) which produced from implementing provisions of the article (39) of the federal general budget law for (2016) which preserved as a deposits for displaced. These deposits shall be added to the allowances to the present fiscal year for the governorates (Alanbar, Nineveh and Salah Aldeen) to restore stability. Allowances must be divided equally). The FSC finds that challenged unconstitutional text had been listed in the law bill sent by the Cabinet, specifically in the article (44/2nd) of the law bill and the government is responsible of executing the financial policy, and it also knows the best methods to settle the contractors' rights. Therefore, the FSC finds that the aforementioned challenge doesn't rely on any substantiation from the Constitution because it was enacted according to the constitutional contexts stipulated in the article (61/1st) and in the article (62/1st) of the Constitution, and it doesn't contradict with its provisions. The challenge must be rejected for these reasons. 10. As for challenge listed on the text of article (42-alif-beh) which stipulates (alif. The federal monetary overseeing divan and the commission of integrity shall proceed scrutinizing the expended financial allocations for those whom included by the law of political prisoners establishment. These offices must check the conformity of presented documents by those included with the legal conditions, and they present a report to the ICR and related offices). The FSC finds that the article (102) of the Constitution didn't stipulate on the commission of integrity duties which submits to the monetary of the ICR exclusively, and it also didn't

stipulate on prohibit adding a new duty to it. On the contrary, the article (challenge subject) is corresponded with the constitutional text, whereas it assigned the commission of integrity an obligation according to a law as the Constitution requires, which is it the enacted budget law. The FSC finds that unconstitutional challenged law is a legislative choice, and it is corresponds to the provisions of article (61) of the Constitution which enacted by the ICR according to its legislative power. The target of this enactment is to associating more than an overseeing office in scrutinizing an important financial dossier, therefore the challenge is not relying on any reason in the Constitution, and must be rejected for this reason. 11. As for challenge listed on the text of article (49) (challenge subject) which includes (the governor of Basra is authorized to move the tutors and the teachers whom has a contract with the governorate (investment contracts) to the directorate of education in Basra. The priority in their appointments in case of that there are vacant job titles and the financial allocation, and the governorate keep pays their wages till they get permanent job titles). The FSC finds that the text (challenge subject) concerns the tutors and teachers whom the governorate contracted with them, their wages were financed from the budget of (petrodollar) which allocated for Basra and moving them to the directorate of education in Basra to appointing them in case of that there are vacant job titles. This text concern oil producing governorates, Basra is in the lead. The FSC finds that the distinguishing which the challenge relied on between the governorates is a privacy for the city of Basra according to its priority in oil producing, and existence of a number of tutors and teachers worked by contracts. Their wages paid from investment budget (petrodollar), and this matter doesn't inhibit to include the oil producing governorates with its judgment if these governorates has tutors and teachers work by contracts, and their wages expended from (petrodollar) budget. This matter doesn't contradicts with the article (14) of the Constitution, because it doesn't inhibits the other governorates to be included if a request were presented in this concern. Accordingly, the challenge listed on the aforementioned text has no substantiation in the Constitution, and it must be rejected for this reason. 12. As for challenge listed on the article (57/2nd) of the budget law which stipulates ((second.

The salaries of ICR Presidency commission shall be reduced by (50%) from salaries allocation, and the salaries of the ICR members shall be reduced by (45%) from salary allocations. The private posts salaries shall be reduced by (40%) from salary allocation. This procedure is corresponding to the Cabinet's decision No. (282) for 2015)). The FSC finds that this challenge is a legislative choice for the ICR according to its powers stipulated in the article (61/1st) of the Constitution, and it doesn't contains any constitutional violation or a financial burden on the budget. On the contrary it is relieving it, and equality meant in the article (14) of the Constitution is related to the individuals of one segment whom doing the same tasks and responsibilities. The tasks of the ICR has a privacy token from its duties which stipulated in the Constitution and the law. This requires to reject the case because it doesn't rely on a substantiation in the Constitution. 13. As for the article (4/2nd) of the law (challenge subject), this article stipulated ((the Ministers, Heads of office unassociated to a Ministry and the governors including the governors of Kurdistan region governorates are authorized to make transaction between credits of expenditure units which listed in their annual budget by a percentage not more than (5%) five percent from the other expenditure unit which credits are reduced, except transactions from credits of capital projects. It must takes in considerations the provision of item (8) of section (9) of financial administration law No. (95) For 2004, this transaction shouldn't be token from the capital projects expenditures allocations to the current expenses. The Ministry of finance/ department of budget must be notified with the transaction for records issues)). The FSC finds after scrutinizing aforementioned text that the challenge which listed by the plaintiff on the text was depending on inaccurate (quotation), the text (challenge subject) didn't ignore mentioning of Kurdistan region, whereas it mentioned the governors. The phrase of the text is clear which is it (the governors of Kurdistan region governorates), while the plaintiff/ being in this capacity when challenged the article (4/2nd) of the law mentioned that the legislator listed the phrase (the governors of Kurdistan governorates) and this phrase is inaccurate, because the word (region) is clear in the text (challenge subject). The legislator intended when he listed this text to make the governors of

Kurdistan region equal to the other governors in Iraq in practicing the transaction process. Contrariwise the text will exceed the principle of equality between the governors of Iraq which article (14) of the Constitution stipulated on, including governors of Kurdistan region. Moreover, the articles listed in the budget law had approved the existence of Kurdistan region as listed in the Constitution, and the budget articles didn't violate the constitutional articles (117, 120, 121) or contradicts it. As proof for this point, the budget law for 2018 stipulated in several of its articles on (Kurdistan region). The law should obey to the Constitution, or it will be unconstitutional and if the Constitution inhibits dealing with the governorates which forms a regions, the legislator will not be able to object it. This matter wasn't include the Constitution, especially the article which the agent of the plaintiff indicated to it, as well as the governorates of Kurdistan region are existent legal entities, enjoying legal personality and considerable financial protection. Therefore, it is legal to deals with it by the state's foundations with no violation to what the region enjoys of legal personality and constitutional consideration. As well as the article (challenge subject) didn't includes what inhibits the governors of Kurdistan region from coordination with the region's government and its parliament when executing the legal text or else. Whereas it regarded a pure regulatory affair, and it doesn't violates the constitutional rights and legal position which the Constitution guaranteed for the region. Therefore, challenged unconstitutional text is not violates the Constitution, on the contrary it corresponds its provisions, and this requires to reject the challenge of the plaintiff because it doesn't rely on any substantiation in the Constitution. 14. As for challenge listed on the text of article (9/1st) of the law (challenge subject) which stipulated (the share of Kurdistan region from the total actual expenditures shown in the table (dal/ accumulated expenditures) which attached to this law according to the population of each governorate. These expenditures shall be paid by the federal Ministry of finance, and with approval of the Prime Minister). The Court found from scrutinizing challenged article which is it (9/1st) of general federal budget law for 2018 it stipulates (the share of Kurdistan region determined from total of expenditures according to the population

of each governorate). The text had clarified the region's entitlements by (region of Kurdistan) not its governorates, also the data of the federal Ministry of planning and trade are involving all population of the Republic of Iraq regarding to its governorates, and if it conditioned to expend the region's share by depending on the region's population, it would not be able to execute the text because there is no data with this caption. This point was taken in the legislator consideration in the text, in addition to that conditioning the approval of the Prime Minister to pay the region's share is restricted on governing expenditures itself. The legislator took in consideration the privacy of Kurdistan region, and the necessity of launching aforementioned share by the highest executive principal in the central government which will guarantee its providing to the region. As for the other governorates which are not conditioned by this stipulation, it is because that these governorates are financed centrally by depending on decentralization administration system. This procedure is to guarantee expending it from the center directly according to the population of these governorates. Whereas this stipulation is not new, and the article (8/1st) of the budget law for 2017 included and the plaintiff/ being in this capacity approved it with no objection. The FSC finds that the challenged unconstitutional text doesn't violate provisions of the article (121/3rd) of the Constitution, on the contrary it conforms with it because it depended on the population percentage beside the other procedures to determine the share from revenues which collected federally, as well as the article (14) of it which is completely conforms with provisions of the article (61) of the Constitution. This require to reject the case because it is not relying on any substantiation in the Constitution.

15. As for the challenge listed on the text of the article (10/2nd/beh) of the law (challenge subject) which stipulated (a percentage of federal land forces of the Iraqi army allocations shall be allocated to Beshmerga according to the population of aforementioned forces. These forces considered a part of the Iraqi security forces). The FSC finds that the article (121/5th) didn't inhibit to count the allocations of these forces by depending on population percentage, and allocated percentage for Beshmerga forces is determined according to this regulation and with the allocations of the federal

land forces of the Iraqi army because it is part of the armed forces. Therefore, challenging the article (10/2nd/beh) of the law has no substantiation in the Constitution, and it conforms the provisions of the article (61) of it. This requires to reject the case for this reason, because it is a calculation matter and doesn't violate the Constitution. The article (10/2nd/waw) of the law (challenge subject) stipulated (obliged the government of Kurdistan region to returns the amounts of the governorate of Kirkuk which collected from petrodollar and deposit in one of the public banks in the region to the account of the governorate of Kirkuk). The FSC finds from scrutinizing the challenge on the text (challenge subject) in above-mentioned article it relied on violation to the article (19/8th) of the Constitution, and it also finds that this relying wasn't correct. The text (challenge subject) contained a financial procedure which the legislator's intention headed to approve it, and the subject is about bank which could be solved by communicating with concerned government and bank offices. It doesn't violates the article (19/8th) of the Constitution, it is conforms to the provisions of the article (61/1st) of it, and this requires to reject it because it is not relying to any reason in the Constitution. The article (10/2nd/heh) of the law (challenge subject) which stipulated (the federal government and Kurdistan region if there is increasing in exported quantities mentioned in the article (1/1st/beh) of the budget law are obliged to deliver collected revenues to the general treasury of the state). The FSC finds that the agent of the plaintiff in the petition of his case had restricted his requests in the aforementioned articles in it, and not among these the article (10/2nd/heh) and the article (17/6th) of the law (challenge subject). This matter requires to void challenge against it. The Court is restricted to trying the case according to what the plaintiff requested in the case according to the text of article (45) of civil procedure law No. (83) For 1969. The FSC decided to void the case for the articles (10/2nd/heh) and (17/6th) of the federal general budget law for 2018. Therefore, and for the aforementioned reasons the FSC decided to reject the case of the plaintiff/ being in this capacity for challenged unconstitutional articles, which they are (11/3rd/jim) and (13/1st and 2nd and 3rd) of the federal general budget law for 2018 for incompetence, and for the reasons listed

about each articles above-mentioned. As well as, the Court decided to judge by rejecting the case for challenge unconstitutional other articles, which they are (11/3rd/beh) and (18/1st) and (33) and (36/2nd) and (42/alif-beh) and (49) and (57/2nd) and (4/2nd) and (9/1st) and (10/2nd/beh, waw) of the law (challenge subject) because if conforms provisions of the Constitution for reasons listed about each article. Also, the Court decided to reject the challenge which listed about unconstitutionality of article (17/5th) text of the budget law for 2018 because the Court took a similar decision by unconstitutionality in a previous case, and as detailed above. The Court also decided to reject the case listed on the article (13/4th) of the budget law (challenge subject) because its legislation was a legislative choice, and it doesn't violates the Constitution. The plaintiff/ being in this capacity is obliged to burden the expenses and advocacy fees of the agents of the defendant amount of one hundred thousand Iraqi dinars, this amount shall be divided between them according to the law. The decision issued in presence of both parties and unanimously and decisively according to provisions of the article (94) of the Republic of Iraq for 2005 and the article (5/2nd) of the FSC's law No. (30) for 2005, with majority of six members and objection of three members for the challenge on article (49). Their objection finds necessity of generalizing what listed in it on oil producing governorates, as well as the article (4/2nd) and the objection is about not to mention Kurdistan region governorates but Kurdistan region government as for the power of making transaction which granted to the other governors. Also the article (9/1st) whereas the objection is about not to distribute the budget according to population percentage but according the agreement till the census is achieved. As well as the article (10/2nd/beh) which the objection is about allocating a specific amount for Beshmerga forces, and not to be including the land forces allocations. The decision was recited publicly on 3.6.2018.