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The Federal Supreme Court (F S C) has been convened on 15.5.2018 headed by the Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, 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 Plaintiffs: 1. (qaf.sad.ain.meem) }  
2. (sin.shin.ha) } their agent the barrister (sin.meem.ghain)  
3. (fa.ha.shin) }  
4. (ha.sad.meem) }

The Defendants: 1. The Prime Minister/ being in this capacity- his agent the jurist assistant consultant (ha.sad).

2. Head of National pension committee/ being in this capacity – his agent the jurist official (kha.alif.nun).

### The Claim

The agent of the plaintiffs claimed that on 1.9.2015 a decision issued by the General Secretariat of the Cabinet by Ref. (333). According to this decision the number of job titles and posts salaries were reduced and adjusted, so the National pension committee reduces the salaries of retired Ambassadors in spite of that those Ambassadors are involved with the exterior service law No. 45 for 2008. The agent of the plaintiffs claimed that the private law restricts the public law, but it doesn't annul it. Besides, the decision No. (333) didn't list the title of Ambassadors clearly like other job titles such as the President of the Republic and his deputies, Presidency Council members, Mayor and his deputy and district administrator, and because the title of the Ambassador comes independent of other posts,

such as in unified pension law No. (9) For 2014 whereas the retirement rights of the Ambassador were listed in the article (35/6th) of it. Therefore, reducing retired Ambassadors salaries by relying on the decision (333) hasn't substantiation in the law. The agent of the plaintiffs requested not to involve his clients with the order (333), and recount their pension salaries according to the exterior service law No. (45) For 2008. The defendants/ being in this capacity were notified by the petition of the case and its documents. The first defendant answered by his draft dated on 11.3.2018 that the case is not a competent of the FSC to try it, because the decision No. (333) for 2015 is an administrative decision. This matter is what the judiciary of this Court settled on, including the decisions (115/Federal/2015) and (65/Federal/2017) dated on (15.3.2016) and (3.8.2017). The agent of the first defendant clarified that the decision of his client doesn't violate the Constitution and issued according to the power stipulated in the article (80/3rd) of it, and he requested to reject the case. The agent of the second defendant answered by his draft dated on 11.3.2018 which he listed in that scrutiny Council of pensioners' cases is competent in trying cases which relates to the decisions issued by National pension committee, and the FSC is not competent to try the case. Article (38) of unified pension law stipulated that annulling legal texts listed in enactments which adjudged pension rights for the retiree, including exterior service law. The text of item 6th of the article (35) of unified pension law the aforementioned which the FSC adjudged with its unconstitutionality by its decision (59/federal/2015) on 19.10.2015. Calculating the Ambassador's salary according to provisions of article (21) of unified pension law. He requested to reject the case. On a set day, the agents of case's parties attended. The agent of the plaintiff repeated the petition of the case, and he presented two drafts by this matter and he recited them during the session. The agents of the defendants answered that they have no comment on what listed in the two drafts, and they are satisfied with what listed in the answering drafts. The agent of the plaintiffs repeated his previous sayings, as well as the agent of the defendants repeated their sayings. The Court made the end of the argument clear, and it issued the following decision.

## The Decision

After scrutiny and deliberation by the FSC, the Court found that the plaintiffs were Ambassadors in the Ministry of foreign affairs, and they were referred to retirement for their ages. Their pension salaries were calculated according to exterior service law No. (45) For 2008, and after issuance of the Cabinet's decision No. (333) on 1.9.2015, the National pension committee made a reduction on their pension salaries according to the aforementioned decision. They initiated their case before this Court, and they requested not to involve them by the provisions of the Cabinet's decision aforementioned and recalculate their pension salaries according to provision of exterior service law because it considered a private law, and the Cabinet's aforementioned decision didn't mention (Ambassador) as it mentioned the others to be involved with. The FSC finds that the challenge of the plaintiffs in their case concentrated on the National pension committee decision by recalculating their pension salaries according to the Cabinet's decision (333) for 2015. The FSC finds that this decision is an administrative decision which the law made a special method to challenge it, and this method is not which the plaintiffs followed to challenge the decision before the FSC. The method which set by the law to challenge National pension committee is a private method which restricts the general method. Therefore, trying the challenge is out of the FSC competence. Accordingly, the Court decided to reject the case of the plaintiffs for incompetence and to burden them the expenses and advocacy fees for the agents of the defendants' amount of one hundred thousand Iraqi dinars divided between them according to the law. The decision issued decisively and binding according to provisions of article (94) of the Constitution and article (5) of the FSC law No. (30) For 2005. The decision made clear on 15.5.2018.