

In The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.58 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 24/6/2014, 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-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, and Hussein Abbas Abu Al-Temman, who authorized in the name of the people to judge and they made the following decision :

The Plaintiff: (Beh.Ha.Ain.Ain.)- his agent the barrister (Mim.Qaf.Teh.)

The Defendant: ICR speaker- being this capacity- his two agents the legal official (Sin.Ta.Yeh.) and (Heh.Mim.Sin)

The Claim:

The plaintiff agent claimed before the FSC in case no.(58/Federal/2014) that the defendant enacted the unified law of retirement No.(9) for 2014 which included the text of the article (337) that violates the provisions and principles of the Iraqi Constitution of 2005. It contradicts the text of the mentioned article and the provisions of the articles (1 and 27) from the Constitution. Also, it violates what included by the constitution introduction included determining to respect the law rules and to achieve justice and equality. Also, it violates the principles of social justice and nondiscrimination among Iraqis. Based on this, he requested to annul the article (37) from the unified law of retirement No.(9) for 2014 for being violated the provisions of the Constitution and to burden the defendant all the expenses and fees of the advocacy. The defendant answered on the case petition by his answering draft presented to the court by his agents and dated on 29/5/2014, he re-

requested to reject the case because the plaintiff agent didn't clarify where the law texts under-challenged intercept with the Constitutional provisions, he didn't clarify the Constitutional article violated by the text of the article (37) from the law, he claimed these with no evidence. This is enough to reject the case and to burden the plaintiff with all the fees and expenses. The court summons both parties to the argument, so the plaintiff agent attended and the defendant two agents attended based on the power of attorney attached with the case file. The argument started publicly and presently, the plaintiff's agent repeated the case petition and requested to decide based on it and to burden the defendant all the expenses and fees of the advocacy. The defendant agents repeated what included by his answering draft, and requested to reject the case and to burden the plaintiff with all the fees and expenses. Based on the court request, the plaintiff agent presented an explanatory draft on 2/6/2014 which clarified that the article (37) from the law – the subject of the case- violates the articles (14, 27 and 23/2nd) from the constitution for the reasons listed by the draft. He requested to decide according to the case petition. Both parties repeated their previous sayings and requests and requested to decide based on them. Whereas nothing left to say, the court made publicly the end of the argument understood as well as the decision.

The Decision:

During scrutiny and deliberation by the FSC, it found that the plaintiff agent challenges in his case petition the unconstitutionality of the article (37) from the unified law of retirement No.(9) for 2014 claiming it violates the articles (14, 27 and 13/2nd) from the Constitution. since the court has already decided in the case No.(36/Federal/2014) initiated before this case and had the same meaning to decide the unconstitutionality of the article (37) from the unified law of retirement No.(9) for 2014, so trying of this case became unproductive, what plaintiff requested in his case- to decide the unconstitutionality of the article (37) from the unified law of retirement No.(9) for 2019- was achieved. The FSC decided to reject the case and to burden the plaintiff with all the expenses. The decision was issued publicly, unanimously, and decisive. The court made the decision understood on 24/6/2014.