

In The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.69 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 18/11/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman, and Aad Hatif Jabbar, who authorized in the name of the people to judge and they made the following decision :

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

The Defendant: minister of finance- being in this capacity-.

The Claim:

The plaintiff agent claimed based on the provisions of the article (62/2nd) from the Constitution which allowed ICR the authority to make a budget transfer between sections and chapters of the public budget and to reduce the total amount, in necessity the council has the right to present a proposal to the council of ministeries for increasing the total amount of expenditures. The provisions of the article (9/7th) from the bylaw of ICR based on the Constitution included ((the presidential commission of ICR shall organize the annual budget of the council and present it to the council for deciding, and supervising on the implementation, and to make the budget transfer between the sections.)). Indicating that the decision of the FSC (25/federal/2012) on 22/10/2012 and because the above text absolutely included by the Constitution and the definite remains as it is, so if ICR has all of it (the budget of ICR) which is an inseparable part from the federal public

budget, then passing the budget for the council and making the budget transfer between its sections is and obliged something for all including the ministry of finance. Based on this, the budget of ICR was sent to the ministry of finance to take what shall take for adopting it within the allocations of the federal public budget of the republic of ICR for the fiscal year 2013 according to the valid legislation, but the budget of the ICR received by the council in a form that totally differs from what voted and decided by ICR. the ministry of finance made editing on the council budget, it changed the stipulated sections and expenditures aspects without the inquiry of ICR, without its approval, and without a legal substantiation which violate the provisions of the Constitution and ICR bylaw. For the above and based on the provisions of the article (93/3rd) from the Constitution, the plaintiff agent requested from the court to annul all the procedures taken by the ministry of finance which doesn't have substantiation from the Constitution or the law. Also, he requested to oblige the ministry to execute the provisions of the ICR budget and the aspects of making a budget transfer between its sections based on the council need which decided and voted by ICR. also, he requested to burden the ministry with all expenses and fees of the advocacy. The general manager of the legal department in the ministry of finance answered on the case petition by his draft- on 29/6/2014 attached to the case dossier- that the department of the budget determined by the law of financial administration to send the budget of 2013 in the time determined by the above law (the beginning of September of each year) but ICR sent the proposals of 2013 in the letter No.(9838) on 21/8/2012 after sending the ratification of the federal budget bill by the cabinet according to the letter No.(2718) on 5/11/2014 based on the cabinet decision No.(396) of 2014 which made it unable to be edited. The expenditures reducing of the budget was done in general and based on directions of the convened commission, directions of the general secretariat of the cabinet in order to secure increasing of investment projects maximum limits. The reducing of ICR budget by the government was only for the salaries of ICR members bodyguards and shall give by the ministry of interior for being the concerned body, but ICR transferred this amount to its decided budget by the cabinet and ICR made the budget transfer within the different budget items to account of (grants and other

financings), this account mustn't be spent only by a law allowed the minister or the body incorporated into a ministry to spend on the mentioned account. The reducing of allocations for the ICR members cars was done according to the directions formed by the cabinet which reduced and reconsider in the public budget of 2013 in order to economize based on the cabinet active decision No.(298) for 2010 and ICR has no right to make a budget transfer for such as these amounts. The case had been registered, the required procedures were completed, then the court selected the day of the argument when the court made its session. The court summons the two parties so the two agents of the plaintiff attended but the defendant didn't. the court decided to make the argument in absentia. The plaintiff both agents repeated the case petition and requested to decide based on it. Where nothing left to be said, the court made the end of the argument and the decision understood publicly.

The Decision:

During scrutiny and deliberation by the FSC, it found that the plaintiff requests to annul all the procedures taken by the ministry of finance which doesn't have a substantiation from the Constitution or the law and to oblige it to execute the provisions of the ICR budget for 2013 and the aspects of budget transfer between its sections based on the council need which decided and voted by ICR. whereas the public budget of 2013 issued by the Law No.(7) for 2013 ((the law of the federal public budget for the republic of Iraq for the fiscal year 2013) and it was executed, the law became under validation and its trying is out of the FSC competence which stipulated by the article(93) from the Constitution and the article (5/2nd) from the of the FSC No.(30) for 2005. So the court decided to reject the case from the competence point and to burden the plaintiff with all the expenses of the case. The decision was issued unanimously and was understood publicly on 18/11/2014.