

In the name of god most gracious most merciful

Republic of Iraq
Federal supreme court
Ref. 81/federal/media/2018



Kurdish text

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-Temman who authorized in the name of the people to judge and they made the following decision:

Plaintiff / Director of the Agricultural Cooperative Bank/ being in this capacity his agent human rights officer (sin. ain. ain. alif.).

Defendant/ Head of the House of Representatives/ being in this capacity his agents human rights officers the director (sin. ta. yeh.) and the Assistant Legal Counsel (heh. mim. sin.).

Claim:

The agents of the plaintiff claimed that the House of Representatives issued the Federal General Budget Law of the Republic of Iraq No. (9) of 2018 and provided for in the paragraph (2nd) article (20) of it ((The government debts owed by farmers and planters whose debts are not more than (250,000,000) two hundred and fifty million dinars are deferred) in all governorates of Iraq with no debt to bear any interest during the period of deferral)) and that this has affected the rights of the client for the following reasons : 1- The House of Representatives did not take into account the principle of (separation of powers), did not seek the opinion of the plaintiff's office was unable to determine whether it was capable of implementing paragraph (2nd), article (20) of

the above-mentioned law, especially since the bank is the only party affected by this legislation as it comes: alif- Higher staffing costs are offset by lower income from agricultural activity (benefits of loans granted) due to the fact that the planned interest of those loans is (2%) of its own resources. beh- Most of the activity of the Agricultural Bank in previous years was based on loans (agricultural initiative), as the interest rate was (2%). These loans accounted for (16%) of the total credit granted, because there are three lending policies for the agricultural sector for the same purpose “The agricultural initiative”, “Central Bank initiative” & “Bank self-resources”, These policies differ from each other in ((terms of lending mechanism and interest rate)), which has led to (reducing the credit of self-resources and the pressure and the work of the bank). jim- The increase in the provision of debts amounting to (9) billion dinars for the transfer of the outstanding installments. The Bank's branches and offices have been suspended in hot spots since 2014 and this is reflected in the bank's cash inflows due to the suspension of debt collection procedures from borrowers in these areas. waw- The failure of the Ministry of Finance to pay the borrowers' loans for the (2012-2013) years amounting to (33) billion dinars, according to the federal budget for the years (2012-2013). yeh- More than (2) trillion dinars for loans (agricultural initiative) from (2008 till 2016) thus, the risks are significant, leading to (loss of the bank) due to the opening (agricultural office) in the sub-districts and districts, bringing the bank financial burdens and increasing expenses. 2- The Bank's loss continued for the years (2016, 2017, 2018), which amounted to more than (13) billion dinars. For the reasons of the request of the agent of the plaintiff ((Judgment of the unconstitutionality of paragraph (2nd) of article (20) of the Federal Budget Law No. (9) of 2018 in order to expose the agent's department to a loss, and it is the only victim of postponement of the payment of installments as this leads to the disruption of the General Facility for the performance of its functions in the service of borrowers and to violate the provisions of the Constitution)), and to charge the plaintiff all fees, expenses and attorneys' fees. The agents of the defendant (Head of the

House of Representatives/ being in this capacity) replied on the case's petition: 1- That the plaintiff did not show the constitutional text, which claims to be violated in the challenge text of the budget law. 2- The House of Representatives is competent under the article (61/1st) of constitution by legislation of the federal laws and under article (62/1st & 2nd) by approving the draft general budget and final account. The House of Representatives to move between the doors and chapters of the general budget and reduce the total amounts, the text - challenged - is a legislative option in which the legislator takes into account the exceptional circumstances of farmers in delaying the payment of their government debts. 3- As for the plaintiff's claim did not seek the opinion of the client when the text - challenged - is adopted, there is no legal or constitutional basis for it. 4- The plaintiff must adjust his expenses and the movement of his personal according to his revenues, especially as he refers to the lending policies of the agricultural sector, namely the agricultural initiative, the initiative of the central bank and the bank's own resources, and it is these policies that have affected and damaged the circle of his client and not the law - challenged - the reasons for the request of the defendant's agents to reject the case. After registration of the case in accordance with the provisions of paragraph (3rd) of article (1), of the bylaw of procedure of the FSC No. (1) of 2005, after the completion of the procedures required in accordance with paragraph(2nd), article (2), of the law that mentioned before. Appointed on 3/6/2018 as the date for consideration of the case in which the court was formed. The defendant's agents attended. The plaintiff did not attend the director of the Agricultural Cooperative Bank or his agents despite the notification according to the law then decided to proceed with his absence. The court examined the contents of the petition and found that the plaintiff objected to what was stated in paragraph (2nd) of the article (20) of the Budget law of 2018, as delaying the repayment of loans from farmers leads to a loss to the bank. Respondents' agents replied that they repeat what was stated in the pleading and asked to reject the case for the reasons stated therein. As the case was completed for reasons of judgment, decided the

conclusion of the pleading was understood and the verdict was understood publicly.

The Decision :

For scrutiny and deliberated by FSC found that the agents of the plaintiff challenged paragraph (2nd) of article (20), of the Federal Budget Law of the Republic of Iraq No. (9) of 2018 which states ((The government debts owed by farmers and planters whose debts are not more than (250,000,000) two hundred and fifty million dinars are deferred) in all governorates of Iraq with no debt to bear any interest during the period of deferral)). The FSC found that the text of the paragraph (2nd) of the article (20) of the Federal Budget Law No. (9) of 2018 -challenged- has been initiated by the House of Representatives on the basis of its powers stipulated in the articles (61/1st & 62/1st-2nd) of constitution and that was a legislative option for it and did not include a breach of the constitution or a violation of its provisions, the FSC decided to reject the case and to charge the plaintiff expenses and fees attorney for the defendant's attorney amount of (one hundred thousand dinars) and issued a ruling binding on all authorities and based on the provisions of article (94) of the constitution and article (5/2nd) of the Law of FSC No. (30) of 2005 and the judgment was understood publicly on 3/6/2018.