

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 82/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8. 7. 2014 headed by 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:

The Plaintiff: Governor of Maysan /being in this capacity his legal counsel (ain. ain. zin).

The Defendant: Chairman of the Maysan Provincial Council /being in this capacity his legal counsel (kaf. sin. kha.).

The Claim:

The plaintiff claimed that the Maysan Provincial Council issued the resolution No. (84) on 12/11/2012 imposing a fee of (5,000) dinars on each nut issued by the Directorate of Passports of Maysan and his client was notified of this with their letter No. (6987) on 19/11/2012 to implement the decision, since the decision is contrary to the law and his client is entitled to refrain from implementing it, as the law of the non-regular provinces in the province No. (21) of 2008 passed for the provincial councils issued legislation for their provinces, provided that they do not conflict with the laws and decisions issued by the federal

government and that the issuance of passports and the imposition of their own fees are regulated by a law issued by the federal government implemented in all provinces above, and therefore the decision of the Provincial Council is contrary to the laws and instructions in this regard. Its decision is against the law and he has asked the FSC to rule on the annulment of decision No. (84) on 12/11/2012 and to charge him fees and expenses and after registering the case in accordance with paragraph (3rd) of article (1) the FSC's Bylaw No. (1) of 2005. After completing the required procedures in accordance with article (2nd) of article (2) of the mentioned system, a date was set for the argument, in which the court was formed, and the plaintiff's agent and the defendant's agent were present under their agency, featured in the case file, and initiated the argument immanence and public. The plaintiff's attorney reiterated the claim and requested the judgment with the defendant charging the expenses and the defendant's agent /being in this capacity replied repeating what was stated in his answer list on 25/9/2013 requesting the dismissal of the case with the plaintiff charging its expenses and the fees of the lawyers recognizing that the provincial council meets a fee (5,000) dinars for each passport issued by the Directorate of Passports in Maysan in addition to the fees prescribed by law in accordance with its validity stipulated in Article (22/2nd) of the Constitution of the Republic of Iraq of 2005 and Article (7/2nd) of the Law on Irregular Provinces in Province No. (21) of 2008. The defendant's agent replied that the passport law is a federal law, which is one of the exclusive jurisdictions of the federal government, so the provincial council went by adding another fee to the fee prescribed by law contrary to the Constitution. The court was informed of the decision No. (84) on 12/11/2012 issued by the Maysan Provincial Council, which includes the imposition of a fee of 5,000 dinars on each passport issued by the Directorate of Passports of Maysan and the amount mentioned is restricted to the Social Solidarity Fund in the Maysan Provincial Council and the need of the Directorate of Provincial Passports is provided from the inks needed to print

passports from the amounts prescribed, any of the amount of 5,000 dinars, this decision is considered valid from the date of its issuance and is published in the official newspaper Maysan, the governor was informed of the decision by the letter issued by the Maysan Provincial Council /Administration/ No. (6987) on 19/11/2012. No. (104) on 28/4/2013, under the numbered letter (24346) on 29/11/2012, the agents of the parties repeated their statements and previous requests and requested a verdict under which there was nothing left to say the end of argument has been made clearly and public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff's agent filed this case, requesting the decision taken by the Maysan Provincial Council no. (84) on 12/11/2012 for violating the Constitution and the Passport Law, included (1) the imposition of a fee of 5,000,000 dinars for each passport issued by the Directorate of Passports of the Province of Maysan. (2) the amount mentioned in paragraph (1) is restricted to the Social Solidarity Fund of the Maysan Provincial Council. (3) the need of the Directorate of Passports of the Métifs is provided with the necessary inks for printing passports in paragraph (1). (4) This decision is valid from the date it was issued and published in the official newspaper Maysan, and since article (2/1st) of the Law on The Irregular Provinces in Province No. (21) of 2008 has indicated the powers of the provincial councils where it was stated (the provincial council is the highest legislative and supervisory authority within the administrative boundaries of the province, which has the right of local legislation within the province to manage its affairs in accordance with the principle of administrative decentralization in contravention of the Constitution and federal laws). Therefore, the decision of the Maysan Provincial Council to impose a fee of 5,000 dinars on each passport issued by the Directorate of Passports of Maysan despite the existence of a federal law, which is the passport law, where by which it decides to

impose a specific fee on each passport issued by passport directorates throughout Iraq and may not repeat the fees, so the approval of a provincial council Maysan No. (84) on 12/11/2012 by imposing a fee of 5,000 dinars on each passport issued by the Directorate of Passports in Maysan is considered to be contrary to the Passport law and regulations issued under which No. (32) of 1999 and rate - without federal legislation - for the amount of the fee contained in it and because the provincial councils are obliged when in the process of exerting their powers stipulated in article (2/1st) of the Law of the Non-Regular Provinces in the province No. (21) of 2007 it is necessary not to violate or oppose federal legislation or the Constitution and where the sit-down of The Province of Maysan has exceeded its powers stipulated in article (2/1st) of the Law of The Irregular Provinces in the province of the province No. (21) of 2008 issued according to the provisions of article (122/2nd) of Constitution by issued the above-mentioned decision, contrary to the provisions of the Passport Law No. (32) of 1999, the FSC ruled that the decision issued by the Maysan Provincial Council was unconstitutional No. (84) of 12/11/2012 for the reasons described above and its cancellation and charge the defendant/being in this capacity all the expenses of the lawsuit and the fees of the lawyers to the agent of the plaintiff legal adviser (ain. ain. zin.) amount (100,000) one hundred thousand Iraqi dinar. The decision was made decisively and unanimously according to the provisions of article (93 and 94) of the Constitution of the Republic of Iraq and article (5/2nd) of the FSC's Law No. (30) of 2005 and made clear in 8/7/2013.