



The Federal Supreme Court (F S C) has been convened on 11.6.2018 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-Temmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (nun.ra.jim) – Member of regional Council for Al-Mutasim province – his agents the barristers (mim.alif.mim) and (ain.alif.mim).

The Defendant: The Speaker of the ICR / being in this capacity – his agents the jurist officials, the director (sin.ta.yeh) and the legal consultant assistant (ha.mim.sin).

The Claim

The agents of the plaintiff claimed that the ICR voted on the third amendment of the law of governorates not incorporated into a region, and the article included a removal of subdistrict councils. This removal considered a clear constitutional violation for the parliamentary (representative) democratic system of the State which article (1) of the Constitution stipulated on, it also considered a violation for commitment of executive and legislative powers by preserving the federal democratic system according to the text of article (109) of the Constitution. This article stipulated that the federal authorities shall preserve unity of Iraq, its integrity, independence, and sovereignty and its federal democratic system. As well as the article (126/3rd) of the Constitution stipulated (other articles not stipulated in clause “Second” of this Article may not be amended, except with the approval of two-thirds of the members of the Council of Representatives, the approval of the people in a general

referendum, and the ratification by the President of the Republic within seven days). This amendment weren't approved by a general referendum, and this matter considered a violation to the Constitution and Al-Mutasim subdistrict is a local administration, a part of the federal system in the Republic of Iraq which consist of a Capital, regions, decentralized governorates and local administrations. Adding to that, the big aggrieve might affect these subdistricts from associating them to the provinces councils, because these subdistricts consist of dispersed and distant villages, whereas the residents can finish their petitions easier when they are near to the subdistrict center, while the province center is geographically much farther. Therefore, he requested from the Court to issue a decision by annulling the third amendment of governorates not incorporated into a region law No. (21) For 2008, and to burden the defendant all expenses and advocacy fees. The answer of the defendant was received by his draft dated on 20.5.2018, and he requested to reject the case because the law didn't affect the subdistricts as an administrative units, and it also didn't stipulate on removing them to say that the law contradicts with the Constitution, and the amendment expresses a legislative will for the ICR according to the articles (61/1st and 122/4th) of the Constitution. After completing required procedures according to the FSC's bylaw No. (1) For 2005, the day 11.6.2018 set as a date for argument. On this day the Court had been convened, and the plaintiff or any of his agents didn't attend in spite of they were notified according to the law. The agents of the defendant requested to proceed the case, and to reject it. The Court scrutinized the case, and it found it ready to be proceeded, and complete to make a decision about it. The end of the argument was made clear, and the decision were recited on 11.6.2018.

The Decision

During scrutiny and deliberation by the FSC, the Court found that the plaintiff is challenging in the petition of his case the third amendment of governorates not incorporated into a region law. Removing (subdistrict Council) will affect the subdistricts by aggrieves because of its association to the province Councils, and these subdistricts consist of dispersed and distant villages, whereas the residents can finish their petitions easier when they are near to the subdistrict center, while the province center is geographically much farther. He added that the

amendment violated the Constitution, and constitutional procedures weren't followed. The FSC finds that the third amendment (challenge subject) doesn't touch the federal system in the Republic of Iraq which stipulated in the article (116) of the Constitution, and this system consist of Capital, regions, decentralized governorates and local administrations. It also doesn't touch administrative components in the governorates stipulated in the article (122/1st) of the Constitution, which they are the provinces, subdistricts and villages that considered the base of decentralization administration. The necessity of (subdistrict Council) existence has no substantiation in the Constitution, and the only necessity which the Constitution stipulated on is existence of the governorate Council according to the article (122/4th) of it. The Court also finds according to what aforementioned that removing (subdistrict Council) according to the third amendment of governorates not incorporated into a region law came as a legislative choice, and the ICR has this power according to its legislative powers stipulated in the article (61/1st) of the Constitution and it has no violation to it. As for the request of the plaintiff about annulling all (challenged unconstitutional law), the Court finds that the plaintiff didn't rely on any specific constitutional reasons, and he didn't clarify how it violates the Constitution. Accordingly, the case is lacking to its legal substantiation and doesn't rely on any reason in the Constitution. The Court decided to reject the case unanimously and to burden the plaintiff the expenses and advocacy fees for the agents of the defendant amount of (one hundred thousand Iraqi dinars). The decision has been issued decisively according to the article (94) of the Constitution and the article (5) of the FSC's law No. (30) for 2005, and made clear on 11.6.2018.