

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref.114 /federal/media/2015



Kurdish text

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The Federal Supreme Court has been convened on 22/11/2015, 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 Aad Hatif Jabbar, who authorized in the name of the people to judge and they made the following decision :

The Request:

The general secretariat of ICR/ the parliamentary department- requested from FSC in its letter No.(1/9/9740) on (17/9/2015) the following:

Greeting

Herewith the request of mister (Heh.Ra.Jim.Mim) member of ICR in order to explain the constitutional articles which relate to the interrogation process that been listed in the article (61/7<sup>th</sup>/Jim) and (61/8<sup>th</sup>/Alif) from the Constitution and the range of correspondence of the bylaw articles that relates to the same fair. During the reading of the constitutional texts mentioned above in the questionable subjects, it had been made clear that the article (61/7<sup>th</sup>/Jim) from the constitution of the Republic of Iraq for 2005 stipulated ((A member of the Council of Representatives, with the agreement of twenty-five members, may direct an inquiry to the Prime Minister or the Ministers to call them to account on the issues within their authority. The debate shall not be held on the inquiry except after at least seven days from the date of submission of the inquiry.)). The FSC finds for the above article that the interrogation shall be according to what the writing (61/7<sup>th</sup>/Jim) from the Constitution required, that the request shall be presented in writing to ICR speaker by on of the members of ICR and the agreement of 25 members

and the one who signed the request of interrogation and supported it can withdraw this request because there is no legal or Constitutional obstacle to withdraw this interrogation. Also, if one of the 25 presenters of the request withdraws his ratifying, it will lead to defect the quorum that was determined by the article (61/7<sup>th</sup>-Jim) from the Constitution and the request will be not meeting the conditions that were obliged by the mentioned article. In this case, the request of the interrogation will be annulled even if the interrogator and the interrogated had been notified the selected date for the interrogation. But if the interrogation meets the conditions, the ICR shall start the procedures of the interrogation process according to the Constitution, this shall not proceed but after at least seven days from the presentation and after the ending of the interrogation and the scrutiny of the answers and compared to the presented pieces of evidence, ICR will build his certainties for the interrogated point of view according to investigating him, this shall present to the voting. If the council voted by the absolute majority (the majority of the attended members) on the certainties about the answers of the interrogated, the subject will be ended. In case of uncertainty of the council about the answers of the interrogated, the council will move to take the other steps that were stipulated in the article (61/8<sup>th</sup>/Alif) from the constitution to withdraw the trust from the minister by the absolute majority and the minister will be considered as resigned from the date of the trust withdrawing decision, and no subject of trust withdrawing from a minister shall be presented only on the base of ICR intention or based on a request signed by 25 members, and the council shall not present its decision but after seven days at least from the date of presentation. By withdrawing the trust from the minister he will return to what he was before being a minister. In case of withdrawing the trust from the prime minister and because of its danger on the political life of the country and what will result in withdrawing the trust from the ministers and converting the cabinet into the council of caretaking until the convening of a new cabinet. The constitution required in the article (61/8<sup>th</sup>/ Beh-1) that the request for trust withdrawing shall be presented by the president of the Republic. Also, the constitution allowed in the article (61/8<sup>th</sup>/Beh-2) to ICR withdraw the trust from the

prime minister based on a request of one-fifth of its members. This request shall not be presented but after an interrogation which directed to the prime minister and after seven days from the request presentation at least. The constitution required in the article (61/8<sup>th</sup>/Beh-3) for withdrawing the trust from the prime minister to vote by the absolute majority of its number of members, in this case the ministry will be considered as resigned according to the text of the article (61/8<sup>th</sup>/Jim) from the Constitution and the prime minister and the ministers will continue in their posts to take care of the daily issues for 30 days until the convening of a new cabinet according to the steps that formulated in the article (76) from the Constitution. mentioned that the interrogation shall be functional and practical in all cases, far away from the political drives and personal reasons. As for the last part of the request of explanation to clarify the range of the correspondence of the ICR bylaw for the same thing. The FSC according to the article (4) from the law of FSC No.(30) for 2005 and the article (93) from the Constitution of the Republic of Iraq which determined its competences and it is incompetent for the mentioned request and it is out of the FSC competences so the court decided to reject it and the decision was issued unanimously on 22/11/2015