

In the name of god most gracious most merciful

Republic of Iraq
Federal supreme court
Ref. 134/federal/media/2017



Kurdish text

The Federal Supreme Court (F S C) has been convened on 11.27.2017 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:

The request

The high judicial council requested/ presidency of Baghdad AL-Kharkh federal court/ citizens affairs department from the FSC in the letter No. (dhal/9/16148) on 11.22.2017 the following:

Sub/ Enquiry

Best regards...

The investigation court of AL-Karkh according to its letter No. (26122) dated on 11.16.2017 to state if it was necessary to get the approval to move the immunity from the member of the ICR in case he perpetrated forms a felony or penalty or not, following to the decision of the federal cassation court No. (91/general committee/2017) dated on 10.31.2017 herewith a copy of it, which concern in the complain of the complainant (heh.nun.sad.mim) against the representative (ain.nun.jim) which there is an order of recruiting her issued against her according to provisions of article (433 penalties). We please your court to observe the letter and inform us. With respect

Based on that the FSC convened on 11.27.2017, and after studying and deliberation reached the following decision.

The decision

The request abovementioned set with its attachment the decision of the general committee of the federal cassation court which decided to rely on the FSC in the subject of the enquiry according to the specialty. The request set for scrutiny and deliberation by the FSC in its session convened on 11.27.2017 and the court found that the article (63/2nd/alif) of the constitution had listed the general principle which related to the immunity of the ICR member, which is not to suing him before the courts about his opinions he states during the convening of the council, and the convening session was defined in article (57) of the constitution what texts (the Council of Representatives shall have one annual term, with two legislative sessions, lasting eight months...). This matter means that the member of the ICR enjoys the immunity during the convening session of his opinions, and he shall not be suited before the courts for this reason. Articles (beh) & (jim) of article (63/2nd) of the constitution the cases which is it not possible to arrest the ICR member within the legislative term in the convening session, whereas it is not permitted but in case that the ICR member is accused with a crime and should not arrested but after getting the major approval of the ICR members, except in case that the member of the ICR was red-handed of a crime, in this case it is allowed to arrest him without approval of the absolute majority of the ICR members. As for – as listed in clause jim- it is not possible to arrest the ICR member outside the legislative term includes the convening session, but if he was accused with a crime after taking the approval the Speaker of the ICR to lift the immunity from him, when that the order of arrest shall be executed except the case that if one of the ICR members red-handed in crime and outside the legislative term period. In this case it is permitted to arrest him without approval of the ICR Speaker, as for what related to the arrest order issued against the ICR member or arresting him with red-handed in a crime. But if the ICR member is accused with a penalty not a crime of what he stated of his opinions during the convening session stipulated on in article (57) of the constitution, the general principle which listed in clause (alif) of article (63/2nd) of the constitution remains in consider, and it is not permitted to suing the ICR member before the courts, but in case that the immunity is lifted on him, as appreciation to the tasks he carries out will be hindered if he were suited without the

approval of the council which has the right of assessing the case and suiting it according to the constitution. The decision issued unanimously on 11.27.2017.