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The Federal Supreme Court (F S C) has been convened on 2.12.2018 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 Request

The Speaker of the ICR requested from the FSC according to the letter issued by General Secretariat of the ICR/ parliamentary office/ committees' affairs numbered (1/9/990) dated on 1.22.2018 the following:

The ICR sends you its Best regards:

Affixing to our letter numbered (shin.lam/1/9/8422) on (8.7.2017) clause four of it about possibility of directing parliamentary questions to the Heads of bodies unassociated with a ministry according to article (61/2<sup>nd</sup>) of the constitution. By returning to what listed in fourth clause of the FSC decision No. (80/federal/2017) which includes (as for the Heads of bodies unassociated with a ministry. The FSC may enquire about the nature of these bodies and its competences to give its answer according to these competences later). Whereas article (80/1<sup>st</sup>) of the Constitution stipulated on (the Council of Ministers shall exercise the following powers: to plan and execute the general policy and general plans of the State and oversee the work of the ministries and departments not associated with a ministry). Whereas the laws and regulations of some offices unassociated with a ministry, such as General Secretariat of Council of Ministers or Mayoralty of Baghdad or the National committee of investment

had granted the personal entity, financial and administrative independence to these offices. While some of these offices granted its Heads the post of a Minister, and these offices are exercising an executing work according to authorities listed in its laws and regulations.

We hope to acknowledge your opinion about possibility of exercising monitory means against the Heads of the commissions includes directing parliamentary questions or enquiry. With respect. The Court set the request for scrutiny and deliberation, and it reached the following interpretative decision:

The decision:

After scrutiny and deliberation by the FSC, the Court found that article (61/7<sup>th</sup>/jim) of Republic of Iraq Constitution for 2005 stipulated on (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), and clause (8<sup>th</sup>/heh) of same article stipulated on (the Council of Representatives may question independent commission heads in accordance with the same procedures related to the Ministers. The Council shall have the right to relieve them by absolute majority). The FSC finds that except those of executive authority members, their questioning must be in accordance with the law that regulates their administrative affairs. As for the job titles which listed in the request, their questioning must be in accordance with the provisions of their laws in what related to Head of investment commission and his deputy. Whereas the Head of the commission is with a post of a Minister, and his deputy is with a post of undersecretary according to text of article (4/3<sup>rd</sup>/alif) of aforementioned law (the Council of Representative has the right to remove the Head of National investment Commission and his deputy directly, or according to a request from the Council of Ministers for a rationale). As for the Mayor of Baghdad, whereas article (2) of fourth amendment of municipality administration law No. 165 for 1964 according to amendment law No. (115) on (5.24.1970) which added according to article (10) of law stipulated

on ((the municipality of Baghdad shall be named mayoralty of the Capital. Its Head is the Mayor of the Capital and assigned by a decree with post of a Minister)). As for the General secretariat of Council of Ministers, article (30/1<sup>st</sup>) of aforementioned Council No. (8) for 2014 stipulated on (the administration of General secretariat of the Council shall be assumed by an employee with a post of a Minister acquiring a bachelor's degree. He should have experience and competence, and has a career not less than (15) fifteen years. In article (30/2<sup>nd</sup>) it stipulated on ((the General secretariat has the legal personality, and represented by the General Secretary or whom he authorized)), and it also stipulated in article (16/3<sup>rd</sup>) on (the Council of Ministers according to a suggestion from the Head of the Council to recommend the ICR to remove the Head of offices which associated to him or the Head of office unassociated with a ministry. This matter must be achieved in accordance with the law). The FSC finds from aforementioned constitutional texts and from text of article (61/2<sup>nd</sup>) of the Constitution which granted overseeing to the ICR exclusively on the Federal executive power performance. This competence was absolute, and absolute is works on its absolution. Therefore, this absolution is extends to Federal executive power personnel, and it also extends to the job titles aforementioned in your abovementioned letter. Their questioning must be achieved according to their laws. The decision issued decisively and unanimously according to article (94) of Republic of Iraq Constitution for 2005 on 2.12.2018.