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The Federal Supreme Court (F S C) has been convened on 5.3.2019 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, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen and Mohammed Rijab AL-Kubaisi who authorized in the name of the people to judge and they made the following decision:

The challenge requestor: (alif.ra.fa.)/ Representative in the ICR/ the Head of Turkmen bloc/ being in this capacity- his agent the barrister (mim.ghain.ain).

Challenged against: 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 challenger claimed that the challenged against had issued the parliamentary decision No. (7) For 2018 on 11.11.2018, and this decision included the resumption of commissioners' Council work and the general Director. This Council had been formed according to the higher independent electoral commission law No. (1) For 2007 (amended), and this decision had violated what stipulated in article (5) of the third amendment of the higher independent electoral commission law No. (45) For 2015. Whereas above-mentioned articles included the assignment of the higher judicial Council (9) judges to administrate the commission, and this administration shall carry out the authority of commissioners' Council. It also included the suspension of the commissioner's Council members in addition to

the Directors of governorates bureaus from work until the investigation of forgery crimes ended. This matter had been indicated to in the decision of the Cabinet which formed according to the challenge an indecently. The challenged decision had included a several constitutional violations, especially the articles (138) and (59/2<sup>nd</sup>) and (57). He requests to judge by unconstitutionality of this decision, and to annul all results based on it. According to aforementioned challenge, the agents of the defendant/ being in this capacity presented a draft dated on 17.1.2019 which included defends, and he requests to reject the challenge for the reasons listed in defends. One of these defends, that the ICR had took the challenged decision after receiving a decision from investigation committee which formed by decision from the Cabinet No. (234) for 2018. Whereas the committee had finished its duties and directions according to the minutes dated on 14.2.2018, and approved by the Prime Minister. The agent of the challenger presented an illustrative draft dated on 21.1.2019, and it contained the answer on the above-mentioned draft. Accordingly, the Court called upon both parties for argument, and on the set day the Court has been convened. The agents of both parties attended, and each one of them had repeated the former sayings and requests. The Court had completed its investigations. The Court decided to make the end of the argument clear, and the decision was recited in the session publicly on 5.3.2019.

### The Decision

During scrutiny and deliberation by the FSC, the Court found that the challenger (the plaintiff) the Head of Turkmen bloc in the ICR/ being in this capacity claims that the challenged against had issued its parliamentary decision No. (7) For 2018 on 11.11.2018resumption of commissioners' Council work and the general Director. This Council had been formed according to the higher independent electoral commission law No. (1) For 2007 (amended), and this decision had violated what stipulated in article (5) of the third amendment of the higher independent electoral commission law No. (45) For 2015. Whereas above-mentioned articles included the assignment of the higher judicial Council (9) judges to administrate the commission,

and this administration shall carry out the authority of commissioners' Council. It also included the suspension of the commissioner's Council members in addition to the Directors of governorates bureaus from work until the investigation of forgery crimes ended. This matter had been indicated to in the decision of the Cabinet which formed according to the challenge an indecently. The challenged decision included a several constitutional violations, whereas (minutes of investigation committee) had been issued which dated on 14.7.2018. According to that, the legal committee in the ICR had requested from the Council's Presidency to issue a private decision to resume the work of commissioners Council, and the ICR had issued according to aforementioned request (the parliamentary decision) No. (7) For 2018. This decision included the resumption of commissioners' Council work and the general Directors. The FSC finds that this decision is administrative, and the law had determined a special method to challenge it. Also it doesn't represent a legislation issued according to a mechanism of legislations issuance. Therefore, the FSC is incompetent to try such decisions, and it must rejected for incompetence. The FSC decided to reject the case of the challenger (the plaintiff) for incompetence, and to burden him the expenses and advocacy fees for the agents of the challenged against (the defendant) amount of one hundred thousand Iraqi dinars. The decision has been issued unanimously and decisively according to article (94) of the Constitution. The decision has been made clear on 5.3.2019.