

# IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 39/federal/media/2015



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 22/6/2015 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abu Al-Temmen who are authorized in the name of the people to judge, and they made the following decision:

## **The Request**

The Iraqi Council of Representatives (I.C.R.)/the president office has requested by its letter no.(mim.ra./681) on 30/3/2015 to interpret article (61/7<sup>th</sup>/Jim)of the constitution, and stated the following:

((According to article (93/2<sup>nd</sup>) of the Iraqi republic constitution for 2005, to ensure consistency of procedures taken in the I.C.R. with the provisions of the constitution regard an inquiry the Prime minister or the Ministers under article (61/7<sup>th</sup>/Jim) of the constitution which stipulate that {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

Federal Supreme Court - Iraq - Baghdad  
Tel – 009647706770419  
E-mail: [federalcourt\\_iraq@yahoo.com](mailto:federalcourt_iraq@yahoo.com)  
Mailbox- 55566

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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 }.)

We kindly request you to issue an opinion and interpret what stated in the mentioned article of provisions related to the required number to direct an inquiry which is twenty-five members under the request from member of the I.C.R., and to state the legitimacy of signatory retracted his signature and request to withdraw it from the inquiry request, and the effect of that on the procedure validity taken to promote the inquiry, does the withdrawal of some signatures lead to the imbalance of the necessary quorum for conducting the follow inquiry and consequently lead to it cancellation or not?

What is the legal opinion in case of achieving the quorum, informing the inquirer and the one to be inquired by the date of the inquiry session, then withdraw the signature, dose the withdraw of the signature don't have value as it is not based on evidence of the constitution or I.C.R. Bylaw, on the base that the inquiry is not canceled except by the inquirer only according to article (59) of the I.C.R. Bylaw.

Pleas to review and inform us...with appreciation.

The F.S.C. placed the request under scrutiny and deliberation and reached the following decision:

## The Decision

During scrutiny and deliberation by the F.S.C., the court found that the mentioned I.C.R. request concern the interpretation of article (61/7<sup>th</sup>/Jim) of the Iraqi republic constitution for 2005, which stipulated that ((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 F.S.C. found that regarding this request the inquiry must be in accordance with what article (61/7<sup>th</sup>/Jim) has conditioned, that it should submitted by one of the I.C.R. members with the agreement of twenty-five members to the speaker of the I.C.R., indicated in it the subject of inquiry, the inquired about issues, the reasons that the inquirer based on, the point of violation he attributes to whom being inquired, and the substantiations which support that, then the Speaker shall proceed with the required procedures for the inquiry. Anyone who has signed and supported the inquiry request, in case of his demand to withdraw his support and refrainment from it, he have to submit a written demand to the Speaker of the Council stating his withdrawal from the request and demanding to withdrawal his signature from the inquiry request, after he became in the position of the inquirer and took his judgment, according to the provisions of the I.C.R. bylaw he have the right to retract from the request as there is no constitutional or legal text prevent him from that, after he think that the inquiry must be done, then he found that the bases for the inquiry are not substantial, therefore the withdrawal of one of the request

submitters of the specified number twenty-five members leads to deficiency in the quorum that is stipulated in the mentioned article, therefore the inquiry request is not fulfilling to its stipulated conditions in article (61/7<sup>th</sup>/Jim) of the constitution.

As for the request to issue legal opinion in case of achieving the quorum, informing the inquirer and the one to be inquired by the date of the inquiry session, then one member demand to withdraw the signature, this is as what stated in the interpretation don't have value as it is not based on evidence of the constitution or I.C.R. Bylaw, on the base that the inquiry is not canceled except by the inquirer only according to article (59) of the I.C.R. Bylaw. The F.S.C. finds that in case of revoking the inquiry request according to what mentioned in the interpretation the inquiry request is revoked, even if that happened after scheduling a date for the inquiry session, whereas the inquiry conditions is flawed for the failure of a condition of it conditions, as for the last part which is the deficiency in the legal quorum to request the inquiry, this would be when the inquiry has fulfilled its conditions, as if it didn't fulfilled its conditions the provisions of article (59) of the I.C.R. bylaw shall not applied. The decision has been issued unanimously on 22/6/2015.