

The Federal Supreme Court has convened in 27.7.2017, headed by the Judge Medhat Al-Mahomood and the membership of the Justices Jaefar Naser Hussain , Akram Taha Mohamed , Akram Ahmed Baban , Mohamed Saeb Al-Naqshabnde , Mikaeel Shamshon Qas Qourqis , Hussain Abbass Abo Al-timen , Abood Salih Al-Temimi and Farooq Mohamed Al-Sami who are authorized to judge in the name of the people. And it issued the follow decision:

The Plaintiff: Head Of The Commissioners Council for the Supreme Independence Commission for Elections/ being in this post, his agent (Rae'. Noon. Aen.) / Director of Legal affairs Section.

The Defendant: The ICR Speaker/being in this post, his agent the legal official (Ha'. Meem. Seen.) .

THE CLAIM:

The agent of the plaintiff claims that on the date 25.4.2017 in the ICR session no.(28) a voting accord on the convincing in the answers of the Head of the Supreme Independence Commission for Elections that was integrated by the deputy (Meem. Tae'.) ; The voting result was: number of attendance (252) deputy, not convinced (119) deputy, the empty papers (15) deputy. Article (59) of Constitution stipulate on (first: the ICR session quorum accomplished with the attendance of the absolute majority of its members. Second: the decisions in ICR done with simple majority after the quorum accomplished). According to clause (second) of article (59) of the constitution the ICR violated the legal base (the silent ones no opinion attributed to them...) the plaintiff presents an illustration draft presented by his agent dated in 3.4.2017 showing that (the number of voters on not convinced in the integrated answers was (119) deputy and number of convinced deputy was (118) and the empty papers was (15) and the attendant deputies was (252) deputy of the ICR total members which is (328) deputy) the plaintiff agent explained that the voters in not convinced didn't reach (127) one ; so the ICR decision that the session result was not convinced isn't constitutional .

Also considering the empty papers is a void papers isn't right according to the legal base (the silent ones no opinion attributed to them...). For the

aforementioned the plaintiffs agent request to void the legal trace of the ICR decision issued in session no.(28).

The agent of the defendant answered on the case petition that managing the voting proses and releasing its result is from the organizing task appointed to the ICR Speaker that is out of the FSC competence (decision 65/federal/2017) and article (61/seventh/Jeem) of the constitution show that the Heads of the independence commissions inquiry should be in the same procedures of the ministers inquiry; among the ministers inquiring procedures is the ICR members voting on the inquired answers that done with the simple majority after checking the quorum according to article (59) of the Constitution which is the majority of the attendances. Therefore the plaintiff mixed between the simple majority and the absolute majority as it shown in the case petition and the explaining draft when he mentioned the majority number wanted to vote on withdrew the confidence of the Prime Minister and not the majority wanted to vote on the convince or not convince. Where is the FSC decision no.(23/federal/2017) remove this mix, also when the plaintiff count the empty papers with the not convinced members is illegal as these papers counted empty and do not have a positive or negative influence on the voting. For the aforementioned the agents of the defendant request to reject the case.

The plaintiff agent present explaining draft dated on 23.7.2017 as a replay on the defendant draft; he repeated in it what is mentioned in the case petition and his previous drafts. After registering the case in the FSC according to clause (third) of article (1) of the FSC Bylaw no.(1) for year 2005 and completing the required procedures according to clause (second) of article (2) the same Bylaw, a day 27.7.2017 appointed as a date for the proceeding, on it the Court convened, the agents of the two parties attended, and started the public proceeding.

The agent of the plaintiff repeated what is mentioned in the case petition and requesting to cancel the ICR decision, the agents of the defendant repeated what is mentioned in the answering draft attached to the case petition and request to reject the case for the reasons mentioned in it.

As the case is ready to be judged the Court decided to end the proceeding and the follow decision made clear.

THE DECISION:

In the deliberation and discussion the FSC found that the plaintiff agent impeaching the ICR decision issued in session (28) on 25.4.2017 that shown that the ICR members isn't convinced in the plaintiff answers , he showed the reasons of that impeaching in the case petition and the explaining drafts requesting to cancel the unconstitutional decision.

The FSC find that an inquiry accord to the constitution according to article (61/eighth/Ha'.) of Constitution, in the ICR inquiry session (252) deputy attended, (119) voted not convinced in the plaintiff answers, (118) deputy voted convinced in the plaintiff answers, (15) deputy didn't voted nether convinced nor not convinced. The Court also find that the defendant claim that the FSC can't judge in the case as it is out of the Court competence is unconstitutional, as article (93/third) of the constitution stipulate on the FSC competence in the challenges presented on the (persuaders) issued by the federal authority. The constitution named the components of the federal authority in article (47) of it; which is the legislative authority and the executive authority and judicial authority, so it is in the Court competence.

Also the plaintiff claim that the quorum in the voters is unconstitutional because the quorum attended members in the session were the impeached decision issued was achieved according to article (59/first) of the constitution, also the ICR Speaker decision in not counting the empty papers to either sides coincide with legal base (the silent ones no opinion attributed to them...).

For the aforementioned the plaintiff case lost it constitutional base and will be rejected and burden him the expenses of the agent of the defendant amount of money (100000) Iraqi Dinar.

The decision was made unanimous according to article (94) of Constitution and made clear in 27.7.2017.