



The Federal Supreme Court (F S C) has been convened on 5.2.2018 headed by the Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, 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 Iraqi National intelligence office requested from the FSC according the letter No. (kha/108/3737) dated (4.5.2018) the following: we send our best greetings: according to the text of article (4/2nd) of your honorable Court law No. (30) for 2005 which stipulated (to take decisions in disputes which related to legitimacy of laws, decisions, regulations, instructions and order that issued from any office has the right of issuing it. It also can annul what conflicts with the provisions of Iraqi state administration law for provisional period, this shall be based on a request from a Court or other official body or a plaintiff with direct interest). Our office is enquiring your honorable Court about validity of article's (16) text of coalition provisional authority order (dissolved) No. (69) For 2004 which stipulated (the General Director in spite of any judgment of any other law, and according to his estimation has the power to cut off services of any member in the commission whenever he considered this matter necessary or beneficiary for the National security interest. These powers couldn't be used to violate Iraqi state administration law for provisional period, or the permanent Constitution when approved). And how possible is this to be reliable in our office. Whereas the General inspector office clarified that exercising these power after the Iraqi permanent Constitution for 2005 became in effect regarded a violation to the Iraqi

state administration law for provisional period or violation to the permanent Constitution. While our legal department sees possibility of using these powers because it doesn't contradict with the provisions of the Iraqi Constitution. This subject was displayed before state consultation Council according to provisions of article (6/4th) of state consultation Council law No. (65) For 1979 (amended) about validity of powers which stipulated according to provisions of article (16) of coalition provisional authority (dissolved). Whereas the Council clarified that enquired subject is out of its competence according to its decision No. (130/2017) on (11.21.2010). Accordingly, we displays before your honorable Court this enquiry about validity or invalidity of stipulated authorities according to article (16) provisions of coalition provisional authority order (dissolved) No. (69) For 2004. We greatly thanks your cooperation. With respect. The request set for scrutiny and deliberation by the FSC, and the FSC reached the following decision:

The Decision

After scrutiny and deliberation by the FSC, the Court found that National intelligence office requested from the FSC a clarification about how valid is article (16) of coalition provisional authority order No. (69) For 2004 (dissolved) which stipulated on (the General Director in spite of any judgment of any other law, and according to his estimation has the power to cut off services of any member in the commission whenever he considered this matter necessary or beneficiary for the National security interest. These powers couldn't be used to violate Iraqi state administration law for provisional period, or the permanent Constitution when approved). The FSC finds that article (130) of the Republic of Iraq Constitution for 2005 stipulated (Existing laws shall remain in force, unless annulled or amended in accordance with the provisions of this Constitution). Whereas article (16) of coalition provisional authority (dissolved) order No. (69) For 2004 didn't annulled or amended. Therefore, aforementioned article of order above-mentioned still valid. The decision issued decisively according to provisions of article (94) of the Republic of Iraq Constitution for 2005, and article (5/2nd) of the FSC's law No. (30) For 2005 on 5.2.2018.