

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 69/federal/media/ 2016



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 20/9/2016 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, Abood Salih Al-Temime, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temmen and Ade Hateef Jabbar who are authorized in the name of the people to judge and they made the following decision:

The Request

The MP (mim. Ra) inquired the F.S.C. by the letter No.(59) issued from his office on (27/8/2016), whether the paragraph (3) of the ministerial order No.(73) issued by the Ministry of Interior on 30/3/2016, it is constitutional or not. it stated the following:

Greetings.

On 30/3/2016, the Minister of Interior's office issued the ministerial order No.(73) paragraph (3) of it stipulated the following (not to deal with or accept any request submitted by political figures, parliamentary figures, the governors , the members of governorates councils) outside the legal framework referred to in paragraph (1) above. According to paragraph (2nd) of article (61) of the Constitution the MP shall have the right to follow up and monitor the performance of the executive authority. In some cases, injustice

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is inflicted on citizens or members of the various government institution regarding not to get promoted according to the law in time, Or creating obstacles whether intentionally or unintentionally to return a person to service. Or any other grievance to any member or employee in any institution, in such cases the MP has the right to intervene to raise the grievance. Therefore my question is, is the paragraph of the aforementioned order by number and date as far as the subject related to the MP, constitutional ?

The request has been set under scrutiny and deliberation by the F.S.C., and issued the following decision:

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the MP in the Iraqi Council of Representative (I.C.R.), MR (mim. Ra. Alif.) requested the F.S.C. by the aforementioned letter issued from his office, to consider his challenge against the constitutionality of paragraph (3) of the ministerial order No.(73) issued by the Ministry of Interior on 30/3/2016. As article (5) of the F.S.C. Bylaw No.(1) for 2005 stipulated that such request must be submitted by letter signed by the competent minister, or by the head of the party that is not affiliated with a ministry, according to that the request must be submitted under the signature of the speaker of the parliament or one of his deputies, on the other hand the court found that the request subject of challenge consider as conflict, and its consideration requires to initiate a case before the competent court and meet the legal fees, after lessening to the plaintiff statements and requests and the defendant arguments the court shall adjudicated it according to the law. As the challenge lack all that,

the request is contradict the F.S.C. Bylaw, which require it rejection. Therefore the court decided to reject it from this point. The decision has been issued unanimously on 20/9/2016.

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