

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq  
Federal Supreme Court  
Ref.7 /federal/media/2015



Kurdish text

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The Federal Supreme Court has been convened on 2/2/2015, 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-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, and Aad Hatif Jabbar, who authorized in the name of the people to judge and they made the following decision :

The Request:

ICR- ICR speaker office- presented by its letter No.(Mim.Ra/194) dated on (1/2/2015) that the article (52) from the Constitution stipulated :

First: The Council of Representatives shall decide, by a two-thirds majority, the authenticity of membership of its member within thirty days from the date of filing an objection.

Second: The decision of the Council of Representatives may be appealed before the Federal Supreme Court within thirty days from the date of its issuance. The above letter referred to the decision of the FSC No.(109/federal/2014) which was issued based on the challenge that the plaintiff presented on the decision of ICR of rejecting his objection.

The above letter went to that ((the objection and case initiating within the legal period that been stipulated in the article (52) from the constitution.)).

The letter requests and for establishing the stability in the legal positions for the ICR members and to avoid being under suspicion, without determining the time limit, the explaining of the article (52/1<sup>st</sup>) from the Constitution and as much as it related to the listed period to be ((from the date of the membership proving or the presence of reason for challenging or knowing this reasons or else))

## The Decision:

The request had been put under scrutiny and deliberation by the FSC in its session that been convened on 2/2/2015, and it reached and as much as the matter related to its competence which been stipulated in the article (93/2<sup>nd</sup>) for explaining the article (52) from the Constitution of the Republic of Iraq. The clause (1<sup>st</sup>) allowed to object on the membership of one of ICR members and obliged ICR to decide in this objection in 30 days from the date of registration at ICR and by the two-third majority of its members. The clause (2<sup>nd</sup>) from the same article allowed to challenge the decision of ICR that was issued as a result of the objection in 30 days from the date of decision issuance from ICR at the FSC.

The FSC finds that the determined period in the clause (1<sup>st</sup>) from the article (52) from the Constitution, starting from the date objection's registration at ICR and oblige it to decide in whether reject the objection and decide the validity of the member whose membership is objected or responses on the objection's obligations and issues a decision of the non-validity of the membership.

When the legislator opened the dorr of objection on the membership, he didn't determine a period for presentation for consideration he saw, it may be found during the period of the membership for one reason of the reasons that affect the validity of the membership of one of the representatives like finding after a while that his certificate which is required for the membership is rigged or he is sentenced previously or other reasons that make him lacking for one of the membership's conditions. If he didn't mean to achieve the legitimacy in ICR membership, he shall put the period of objection presentation as he did in the clause (1<sup>st</sup>) from the article (52) from the Constitution that obliged to decide on the objection during it and as he did in the clause (2<sup>nd</sup>) from the same article which obliged the one whose objection got rejected to challenge the rejection decision that been issued from ICR in 30 days from its issuance date. This period is final, non-considering it and escape it will lead to lost the right of the challenge, ensuring the stability of the legal centers. The decision had been issued unanimously on 2/2/2015.

Federal Supreme Court - Iraq - Baghdad  
Tel – 009647706770419  
E-mail: [federalcourt\\_iraq@yahoo.com](mailto:federalcourt_iraq@yahoo.com)  
Po.box55566

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