



The Federal Supreme Court (F S C) has been convened on 10.30.2017 headed by the Judge Madhat Al-mahmood and membership of Judges Jaafar Nasir Hussein, Akram Taha Mohammed, Mohammed Rijab AL-Kubaisi, Mohammed Saib Al-Nagshabandi, Aboud Salih Al-Temimi, Mikael Shamshon Qas Georges, Hussein Abbas Abu Altemmen and Mohammed Qasim AL-Janabi who authorized in the name of the people to judge and they made the following decision:

Plaintiff: Minister of planning/ being in this capacity – his agent the legal official (ain.ra.mim).

Defendant: Speaker of the ICR/ being in this capacity – his agents the legal official as a General Director (sin.ta.yeh) & the legal assistant consultant (heh.mim.sin).

claim

The agent of the plaintiff claimed that his client previously notified with the letters of the ICR (shin.lam/1/9/1090) on 1.29.2017 and (shin.lam/1/9/6358) on 6.5.2017 whereas it decided that his client/ being in this capacity should attend to the ICR for inquiry before the ICR, as long as the inquiry had exceeded the frontiers of the law which draw to it and its violation to the provisions of the constitution and the bylaw of the ICR, he proposed to challenge it before this court according to article (93/3rd) of the constitution for the following reasons: first: the questions which directed to his client were not clear and what it demands, whereas the questions were general for a cases does not exist contrarily of article (58) of the ICR bylaw which stipulates on (the interrogation request shall be submitted in written to the President of the ICR, signed by the interrogator with the agreement of 25 Members, stating generally the subject and issues of the interrogation, the facts and the main points about that interrogation, and

the reasons at which the interrogation presenter count on, in addition to the nature of violation attributed to the person to be questioned, as well as proofs and evidences which support the person submitting the question. The interrogation shall not include issues that are contrary to the constitution, law, or improper phrases, or related to matters that are not within the jurisdiction of the government, or implies private or personal interests for the interrogator. Also no interrogation that deals with pre-discussed subjects could be submitted unless if new related events justify that). Whereas the abovementioned article obliged to present the questions and the substantiations clarifying in it what needed for answer. Second: the ICR bylaw had a draw a legal path to let the interrogation presenter on his evidences, substantiations and documents by sending a written letter and fundamental correspondences and notifying the ICR presidency according to the text of article (50) of the ICR bylaw which stipulates on (each Member may question members of the Presidency Council, the Prime Minister, his deputies, ministers, deputy ministers, or other members of the government or leaders of independent commissions, and offices in writing, with notification of the Presidency Commission, regarding any matters that are within their specialization, or to ask about any subject the Member has no knowledge about, or to verify any event he came to know about, or to know what the government intends to do regarding a particular issue). Whereas the interrogation presenter did not get his priori and substantiations by the way which draw to him by the law, therefore the interrogator presenter had violated the provisions of this article, which means the interrogation decision lacking its constitutionality. Third: article (58) of the ICR bylaw obliged that there is no personal or private interest clarifies that there are a several judicial cases between who wanted to be interrogated and the interrogator presenter. These cases and quarrels are confirmed and known in media before the interrogation request, and this matter violates aforementioned article. Fourth: in the interrogation request a number of questions and enquiries were listed should be directed to his client, especially the decision of the cabinet No. (148) for 2016 whereas this decision signed by the general secretary of the cabinet, and the office of his client is an executive office executing these decisions because the cabinet is a body with authority to issued such decisions. Fifth: the interrogation in its first stages based on the interrogation request signed by not less than (25)

members of the ICR, and this request is the base of the interrogation and built on a signatures does not belongs to the representatives. His client initiated an investigation case at AL-Karkh investigation court, and requested to complain against the interrogator representative because she presented and used a signatures pretended its reference to some members of the ICR. AL-Kharkh investigation court directed its letter number 599/office/2017 on 7.31.2017 to the ICR to note the sayings of the representatives about the interrogation request to clarify if these signatures are related to them. It is clear that the interrogation request is challenged before the specialized investigation court, and continuing its processing regarded a violation to the law. Sixth: the papers and documents which herewith the interrogation request does not promote to an evidences level which confirms the existence of a legal violations and it could not be a reason for interrogation, and what the FSC went to in its decision No. (39/federal/2015 & 41/federal/2012). The agent of the plaintiff requested to, first: issuing an urgent obligatory order to stop the interrogation process till a decision made about the forged signatures. Second: to judge with unconstitutionality of the interrogation request because unavailing of article (61/7th/jim) provisions of the constitution of Iraq and provisions of articles (50 & 58) of the ICR bylaw, and he also requested to cancel the interrogation request which listed in the two letters of the ICR number (shin.lam/1/9/1090) on 1.29.2017 & (shin.lam/1/9/6358) on 6.5.2017 because of its unconstitutionality, and to burden the defendant the advocacy fees and expenses. After registering this case at this court according to clause third of article (1) of the FSC bylaw, the answer of the defendant was received and he requested to reject the case for the following reasons. First: the interrogation was processed during the session of the ICR dated on 8.17.2017 and the council voted on satisfaction with the answers, therefore the claim of the plaintiff has not any reason anymore. Second: indicated to the decision of the ICR No. (48/federal/2017) on 5.29.2017 which decided to reject the case and relate to the subject of this case, and already a decision made about it. After completing the required procedures in case according to clause (2nd) of article (2) of the aforementioned bylaw, the day 10.30.2017 was set as a date for pleading. On that day the court was convened, and the agent of the plaintiff attended as well as the agents of the defendant. The public in presence pleading proceeded, and the agent of the

plaintiff repeated what listed in the petition of the case and the agents of the defendant repeated what listed in the answering draft. The court completed its investigations, whereas nothing left to be said, the end of the pleading made clear and the decision was recited publicly.

The decision

After scrutiny and deliberation by the FSC, the court found that the agent of the plaintiff, challenges that his client informed to attend to the ICR for interrogation and this request had exceeded the limits of the law and the constitution, whereas the questions were not clear and true and the bylaw draw a legal path which the defendant did not committed to, and because of personal interest existence for the interrogation presenter with his client in addition to that she presented a signatures pretended its reference to some of ICR members, and his client challenged that before the judicial authorities and the papers and document herewith does not valid to be an evidences which makes the interrogation request violates article (58) of the ICR bylaw and he requested to judge with unconstitutionality of interrogation request because of unavailability of article (61/7th/jim) provisions of the Republic of Iraq constitution and the provisions of articles (50 & 58) of the ICR bylaw. The FSC finds that the challenged interrogation request had been issued from the ICR according to article (61/7th/jim) of the constitution, and the plaintiff attended to the ICR and had been interrogated in the session dated on 8.17.2017 and the council was satisfied with his answers, therefore reviewing in request of judging to cancel the ICR decision of his interrogation is futile and the case is not valid anymore after the interrogation process were done, and the results appeared. Therefore, the FSC decided to reject the case and to burden the plaintiff/ being in this capacity the expenses and advocacy fees for agents of the defendant/ being in this capacity amount of (one hundred thousand Iraqi dinars) divided between them equally. The decision issued decisively according to article (94) of the constitution, unanimously and made clear on 10.30.2017.