



The Federal Supreme Court (F S C) has been convened on 1.21.2018 headed by the Judge Madhat Al-mahmood and membership of Judges Farouk Mohammed Al-sami , Jaafar Nasir Hussein , Akram Taha Mohammed , Akram Ahmed Baban , Mohammed Saib Al-nagshabandi , Aboud Salih Al-temimi , Michael Shamshon Kis Georges and Hussein Abbas Abu Altemmen who authorized in the name of the people to judge and they made the following decision:

The Request

The ICR/ first deputy of the Speaker office requested from the FSC in the letter (urgent) Ref. (mim.kha1/3/19) on 1.17.2018 what texts:

Sub/ opinion explanation – interpreting a constitutional articles.

Peace is upon you...

1. According to provisions of item (1st) of article (56) of the constitution, the electoral term duration of the ICR is four calendar years, starting from its first session, and it ends by the end of the fourth year.
2. According to provisions of item (2nd) of article (56) of the constitution the new ICR shall be elected forty-five days before the end of the last electoral term.
3. According to provisions of article (7/1st) of the ICR elections law No. (45) For 2013 the ICR elections must be performed forty-five days before the end of the last electoral term leastwise.
4. According to provisions of article (7/3rd) of the ICR elections law No. (45) For 2013 the date of the elections shall be

determined by a decision of the cabinet in coordination with the high independent electoral commission, and the ICR approves it. This approval issues by a Republican decree and announced in all Medias before determined date of its performing with a period not less than 90 days.

We please you to review it and explain the opinion according to provisions of article (93/2nd) of the constitution, if the high independent electoral commission and according to principle of constitution's superiority and its domain on the law is obligatory of performing the elections in the determined date according to the item (2nd) of article (56) of the constitution, and item (1st) of article (7) of the ICR elections law No. (45) For 2013 in case that the ICR did not approve the determined date of the elections by the cabinet in the method mentioned in article (7/3rd) of the elections law aforementioned. With respect and appreciation.

The interpretation decision:

The request in its form which received by the FSC set for scrutiny and deliberation, and the court that its subject is ruled by clause (1st) of article (56) of Republic of Iraq constitution for 2005 what texts: ((the electoral term period of the ICR is four calendar years, starting from with the first session and ends by the end of the fourth year)). By inducing this text, the court found it is a ruler text the constitution determined in it the start of the electoral period term of the ICR and considered from the first session and extends to four calendar years and its end by the end of the fourth year of this term. This term is the period of electoral term power and any procedure token out of it has not substantiation in the constitution, and the traces of this procedure considered nonexistent because the voter which gave his vote to whom he choose as a representative of him in the ICR gave him a limited authority as for the period and this authorization ends by its determined period in the constitution which is it four calendar years, and no body can exceed it because if it is exceeded will means exceeding the will of the Iraqi people which affirmed this period from the beginning to the end when he approved the constitution articles by the public referendum which performed on all its articles includes article (56/1st), and the people

is the source of the powers and its legitimacy as article (5) of the constitution judges with, and its constitutional will must not be violated. As well as this period must not be exceeded and relying on any text in any law because this will contradict with provisions of article (13) of the constitution which stipulated on:

Article (13) – first- this Constitution is the preeminent and supreme law in Iraq and shall be binding in all parts of Iraq without exception.

Second - no law that contradicts this Constitution shall be enacted. Any text in any regional constitutions or any other legal text that contradicts this Constitution shall be considered void.

The FSC finds that the only text which allows the prolongation according to the constitution is the text of article (58/2nd) of it which permit to prolong the legislative term of the ICR convening session not more than thirty days to accomplish the tasks which requires that, based on a request from the President of the Republic or the Prime Minister or the Speaker of the ICR or fifty members of the ICR. Prolongation the legislative term obliges to not exceed the period of the electoral term because this matter contradicts with provisions of article (56/1st) listed aforementioned in addition to the necessity of taking in consideration the date of the new council election which obliges to be performed forty-five days before the end of the last electoral term as article (56/2nd) of the constitution texted. Accordingly, the high independent electoral commission and the ICR are obliged to implement the provisions of article (56/2nd) of the constitution and the election performs according to the determined duration in it, and not to exceed it. Determining another date for the general elections of the ICR regarded an amendment to the provisions of article (56/2nd) of the constitution with the reverse method to amend its articles mentioned in article 126 of it. The interpreting decision issued unanimously on 1.21.2018.