

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 98/federal/media/ 2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 8.11.2015 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, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Request:

The Iraqi Council of Representatives (I.C.R.)/ the president' first Deputy office has requested the F.S.C. by the letter No.(mim.kha.1/3/300) on (15/9/2015) the following:

Peace be upon you and the mercy of Allah and his blessings

First. According to the provision of article (Jim) of clause (7th) of article (61) of the constitution, a member of the Council of Representatives, with the agreement of twenty-five members, may direct an inquiry to the Prime Minister or the Ministers to call them to account on the issues within their authority, the debate shall not

Federal Supreme Court - Iraq - Baghdad
Tel – 009647706770419
E-mail: federalcourt_iraq@yahoo.com
Mailbox- 55566

Atchraa

be held on the inquiry except after at least seven days from the date of submission of the inquiry.

Second. According to the provisions of article (alif) of clause (8th) of article (61) of the constitution, the Council of Representatives may withdraw confidence from one of the Ministers by an absolute majority and he shall be considered resigned from the date of the decision of withdrawal of confidence, a vote of no confidence in a Minister may not be held except upon his request or on the basis of a request signed by fifty members after the Minister has appeared for questioning before the Council, the Council shall not issue its decision regarding the request except after at least seven days from the date of its submission.

Third. According to the provision of article (61) of the I.C.R. Bylaw, if the debate on the inquiry end up with the confidence of the council with the opinion of the one being inquired the issue shall consider finished, otherwise the inquiry may lead to withdraw confidence from the one being inquired according to the procedures listed in the I.C.R. Bylaw.

Pleas to review and state an opinion in the following issues according to the provisions of clause (2nd) of article (93) of the constitution:

1. To interpret the provisions listed in articles (61/7th- Jim) of the constitution and the stipulated mechanism so that the I.C.R. would practice his monitoring authority.
2. The mechanism that throw it could determine how much the I.C.R. is convinced by the opinions of the one being inquired in the debate on the inquiry directed to him in light of the texts of

the articles (61/7th-Jim) and (61/8th-alif) of the constitution, and article (61) of the I.C.R. Bylaw.

3. The decision resulted of the I.C.R.' conviction in the opinions of the one being inquired and how much that would prevent the council from practicing its constitutional right to withdraw confidence from the one being inquired under the provisions of article (61/8th-alif) of the constitution.

Pleas to except all the appreciation

The F.S.C. placed the request under scrutiny and deliberation and reached the following decision:

The decision:

During scrutiny and deliberation by the F.S.C. the court found that the I.C.R. has requested the F.S.C. by its mentioned letter to interpret the provisions listed in articles (61/7th-Jim) and (61/8th-alif) of the constitution and the stipulated mechanism by it so that the I.C.R. could practice his monitoring authority, and the mechanism that throw it could determine how much the I.C.R. is convinced by the opinions of the one being inquired in the debate on the inquiry directed to him in light of the texts of the articles (61/7th-Jim) and (61/8th-alif) of the constitution, and article (61) of the I.C.R. Bylaw, and the decision resulted from the I.C.R.' conviction in the opinions of the one being inquired and how much that would prevent the council from practicing its constitutional right to withdraw confidence from the one being inquired under the provisions of article (61/8th-alif) of the constitution. during the reviewing the mentioned constitutional text and the issues that are under inquiry, it was clear that article (61/7th-Jim) of the Iraq republic constitution

Federal Supreme Court - Iraq - Baghdad

Tel – 009647706770419

E-mail: federalcourt_iraq@yahoo.com

Mailbox- 55566

Atkrraa

for 2005 has stipulated that ((a member of the Council of Representatives, with the agreement of twenty-five members, may direct an inquiry to the Prime Minister or the Ministers to call them to account on the issues within their authority, the debate shall not be held on the inquiry except after at least seven days from the date of submission of the inquiry)), the F.S.C. found that regard the mentioned article that the inquiry must be according to the conditions stipulated in article (61/7th-Jim) of the constitution, that the request must be submitted written to the Speaker of the I.C.R. by one of the I.C.R. members and with the agreement of twenty-five members, and the one that signed the inquiry request and confirm it could withdraw this request as there is no legal or constitutional prevention for him to withdraw this inquiry, also the withdrawal of one of the request submitters of the twenty-five members leads to deficiency of quorum that was stipulated in article (61/7th-Jim) of the constitution, after that the request conditions become unfulfilled which are obligated by the mentioned article, in this case the inquiry request become nulled even if the inquirer and the one being inquired was notified with the inquiry date. If the inquiry was fulfilled to its conditions the I.C.R. shall initiate the procedures of the inquiry in accordance with the constitution, and that shall not be held on except after at least seven days from the date of submission, after the end of the inquiry and scrutinizing the answers and comparing it with the submitted evidence, then the I.C.R. shall build his convection on the opinions of the one being inquired after the debate, and that shall presented to voting, if the council has voted with the absolute majority (the majority of the attendee) on its convection with the answers of the one being inquired so that the

subject is ended. In the case that council is not convection with his answers the council shall take further procedures as stipulated in article (61/8th-alif) of the constitution to withdraw confidence from the Minister by the absolute majority, and the minister shall consider resigned from the date of the decision of withdrawal of confidence, a vote of no confidence in a Minister may not be held except upon his request or on the basis of a request signed by fifty members after the Minister has appeared for questioning before the Council. The Council shall not issue its decision regarding the request except after at least seven days from the date of its submission, and by withdrawal the confidence from the minister he shall return to his post before he become a minister. As for in case of withdrawal the confidence from the Prime minister as it dangerous in the political life of the country and it results of withdrawal confidence from all the ministers and the council of ministers shall become care taking council until the formation of new ministers council as the constitution has conditioned in article (61/8th-beh-1) of it that the withdrawal of confidence' request shall be submitted by the president of the republic, also the constitution in article (61/8th/beh-2) has authorize the I.C.R. under the request of one fifth (1/5) of its members to withdraw confidence from the Prime minister, this request cannot be presented unless after an inquiry directed to the prime ministers and after at least seven days from the date of its submission. The constitution has conditioned in article (61/8th/beh-3) to withdrawal the confidence from the prime ministers by the voting in the council with the absolute majority of its members in this case the ministry consider resigned according to the text of article (61/8th/Jim) of the constitution, and the prime

minister and the ministers shall continue in their posts to take care the daily matter for no more than thirteen days until the formation of the new council of ministers according to the stipulated procedures in article (76) of the constitution. With the indication that the inquiry in all cases must be professional and objectives far from the political and personal reasons, the decision has been issued unanimously on 8/11/2015.