



The Federal Supreme Court (F S C) has been convened on 4.18.2017 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/ general secretariat/ the Parliamentary office/Committees affairs requested from the FSC, according to the letter No. (sheen.lam./1/9/1548) dated on 2.9.2017 what follows: Best regards, accordingly to existence of a need to take decision in some of Constitutional text connotations, has its importance to resolute the opinion in many of inquiry presented by the representatives or in treating some of expected future problematic, pleasing you, to interpret the following texts: first: article (61/8th/haa'), which stipulated on (the ICR has the right to questioning the official of the independent Committees, according to the procedures that related to the Ministers, and has the right to dismiss them, with unanimous majority), to clarify: the meaning of the independent committees officials, and does that goes to the Heads of independent Committees only, or it is including the members of commissioner Council in some of these Committees, because these Councils are interested originally in issuing the important decisions, that related to the work of these independent Committees, in addition to that the mechanism of their assignment provided the approval of the ICR on their nomination, such as the Commission of Human Rights and the independent higher electoral commission, does

this phrase including (the officials of the independent Committees) the official that assigned on their own behalf only, or it is includes the official that assigned incumbently only, to what those have of role in administrating these committees. Second: article (61/7th/jeem) of the Constitution which stipulated on (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) to clarify: does the phrase (to account them on the issues within their authorities) implemented on the Minister, according to what related to the work of his Ministry, which he had been granted the confidence according to it, not for something else, or it is including in addition to the Minister who is assigned to administrate a Ministry on behalf of?, is it possible to withdraw confidence from a Minister according to inquiry directed to him related to his administration of a Ministry on behalf, not the Ministry he had been granted the confidence for, by the ICR?. In case that we considered the administration of the Minister to the Ministry on behalf, which occurs within his specialties, is it possible to direct an inquiry to the Minister to account him in the affairs within his specialties, of the Ministries he administrate incumbently or on behalf of, in one inquiry?, in case that the questioned Minister did not attend to the inquiry session, without presenting legal excuse, is it possible to discuss the inquiry without his attendance, because he has the right to defend himself of what directed to him of accusation, regarding the phrase (discussion in the inquiry) which listed above mentioned, and the phrase (as a result of an inquiry directed to him) in article (61/8th/aleef) could be interpreted like that. With respect. The request set for scrutiny and deliberation by the FSC, and the court reached what follows:

The decision

After scrutiny and deliberation by the FSC, the Court found that the general secretariat of the ICR, and according to its letter (sheen.lam/1/9/1584) on 2.9.2017 , and its annex the letter No. (sheen.lam/1/9/4246) on 4.16.2017, requested from the FSC to interpret the texts that related to the article (61/8th/haa') and (61/7th/jeem) of the

Constitution. The FSC finds that the enquiries related to the article (61/8th/haa') as follows: first: 1- what is the meaning of the phrase (the independent Committees officials), which listed in the abovementioned article, does not goes to the Heads of the independent Committees only, rather it is includes all the members of commissioner Council, if the decisions were took by them, even if it was with unanimously or with majority. 2- It also includes the officials of the independent Committees whom assigned on behalf of, according to the role of those in administrating these Committees, if they had been granted the full powers, which had been granted to the incumbent. Second: 1- as for the request of interpretation of article (61/7th/jeem) of the Constitution. The FSC finds that the listed phrase in it, which is it (to account them in the affairs within their authorities), includes, in addition to the Minister whom assigned incumbently, the Minister whom commissioned to administrate another Ministry on behalf of, if he had been granted the powers that granted to the incumbent completely, as he regarded a Minister, the ICR approved to assign him according to the constitution. 2- It is possible to withdraw the confidence of the Minister after his inquiry, according to the listed texts in the constitution, and the Bylaw on the ICR. 3- It is possible to questioning the Minister to account him in the affairs within his specialty, of the Ministry he administrate incumbently, and the Ministry he administrate on behalf of, in one inquiry. Whereas the Constitution or the Bylaw of the ICR did not prohibit that. 4- it is possible to questioning the Minister, according to the provisions of the Constitution and the Bylaw of the ICR in case of that he did not attend the inquiry session in the ICR, after he is notified, and he did not present legal excuse, as that regarded an admission, of what he was accused with, in the questions of the inquiry, and waiver of the right of reply. The decision issued unanimously on 4.18.2017.