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The Federal Supreme Court (FSC) has convened on 12.20.2016 headed by the Judge Madhat Al-manhood and membership of Judges Farouk Mohammed Al-sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib alnagshabandi, 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:

Plaintiff / Minister of Finance/ being in this capacity / his agent is the barrister (sheen . seen .seen).

Defendant / the speaker of ICR / being in this capacity/ his agents are the officials (seen. taa'. yaa') and (haa'. meem. seen).

### Claim

The agent of the plaintiff has claimed before the (FSC) in case No. (78/federal/2016) that the defendant has instructed to list clause of (satisfaction) with the answers of his client's questioning session (the plaintiff) the Minister of Finance/ being in this capacity , on Saturday 8.27.2016 according to the request of the interrogator, the representative (haa'.raa'.jeem). Whereas the issued decision by the respondent to the interrogator representative's request had included clear violation to the constitution provisions and the bylaw of the I C R as follows: 1- the clause of listing the (satisfaction) subject into the answers of the interrogated (plaintiff) , violate the constitution according to the provisions of article (61.7<sup>th</sup>/c) which stipulates (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). 2- the discussions inside the ICR , session of Saturday dated on 8.27.2016 , included debate of article (61) of the ICR's bylaw which stipulates (If the debate is completed and the ICR is convinced by the interrogator's point of view , then the issue it shall be considered settled. Otherwise the interrogation shall result in withdrawing the confidence in accordance with the procedures stipulated in the constitution). Here it must be pointed to what this article addresses in the bylaw, is completely different of what is mentioned in article (61/7<sup>th</sup>/c) of the constitution, whereas the bylaw of the ICR addresses the subject (when the debate of the interrogated Minister is over), while it describes the specific debate according to the constitution, the duration is limited to (seven days) at least, from the date its presentation; we also notify your honorable Court that the interrogation session ended on Thursday 8.25.2016 about 9 p.m. Friday is an off day and on Saturday morning 8.27.2016 they voted for non-satisfaction, and that is a clue that the decision of listing the clause of satisfaction with the answers of the interrogated (plaintiff) violates the constitution, according to the abovementioned article. 3- we also would like to make clear to the honorable Court that the atmospheres were where voting of non-satisfaction had been disturbed by a numerous of legal violations, it is occurred in a tensioned and nervous atmospheres and hand fight, and retreating of some members of the session, moreover, the method of questioning was incompatible to the parliamentary courses, which suggest innocence, good intention and objectivity. In addition to a suggestion of some of parliamentary coalition leaders to postpone the voting session of (satisfaction) with the answers of the interrogated (plaintiff), to give it the enough time to evaluate these answers, and that didn't happen in the session. Therefore, and on the basis of the aforementioned reasons and what your honorable Court sees of considerable reasons, the agent of the plaintiff requested the FSC after performing its procedures, to judge by unconstitutionality of the ICR's decision issued on 8.27.2016 , in the third electoral cycle/ the third legislative year/

the first legislative term/ the fifteenth session , and to supply him with a letter to the ICR notifying it with the subject of case and to burden the defendant all charges and expenses, the two agents of the defendant/ being in this capacity, they answered the petition of the case with an answering draft presented to this court on 9.27.2016, and they requested the FSC through it to reject the case and to burden the plaintiff all its expenses and the advocacy fees, for the following reasons: 1- the agent of the plaintiff claims in clause (1) of the draft that the listing of satisfaction subject into the answers of his interrogated client, violates the text of article (61.7<sup>th</sup>/c) of the constitution, basing on the necessity of questioning debate should not be performed, unless 7 days of its presentation, therefore the agent of the plaintiff relies to a text completely irrelevant to the subject of the appeal, the mentioned constitutional article stipulates 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). It is clear that the text concerns the article which should separate between the request of questioning and the discussion of that questioning, which is seven days. It is an irrelevant matter to the duration which separates between the satisfaction of the questioning and granting the confidence to the minister, which is seven days too, but that matter organized by text of article (61/8<sup>th</sup>/a) of the constitution rather than the text that the agent of the plaintiff relied on, subsequently his pretence is non-productive in the case at all, 2- the agent of the plaintiff rests on clause (2) of the case petition on the article (61) of the ICR's bylaw, being different from what article (61/7<sup>th</sup>/c) of the constitution addresses, once again the agent of the plaintiff rests to an irrelevant text. The article which concerns in impeaching the bylaw is article (63) and not another one. Comparing article (61) of the bylaw to the article (61/7<sup>th</sup>/c) of the constitution is baseless, whereas each of them has a specific provision, and he should compare between article (61/8<sup>th</sup>/a) of the constitution, to discover that they are completely harmonious and matching in their

provisions, whereas article (63) stipulates (ICR has the right to withdraw confidence from any minister by absolute majority and he shall be considered resigned from the date of withdrawal of confidence decision. This shall be initiated by a request from the affected Minister, or upon request signed by 50 Members of the ICR due to interrogation directed to him. The ICR shall not issue its decision for 7 days after the request). This is a text typically matching the text of article (61.8<sup>th</sup>/a) of the constitution, therefore the pretence of the agent of the plaintiff in non-productive and irrelevant to the impeachment, 3- and the claim of the agent of the plaintiff that the questioning session ended on 8.25.2016, and voting on non-satisfaction was on Saturday 8.27.2016, and that violates the constitution, we also clarify to the Court that the durations which are listed in the text are concerned regulatory matters, which concerns workflow in the ICR and do not include the capacity of the Honorable Court, already there was a judgment issued in case No. (51/federal/2009) on 9.12.2009 that the FSC has no power to interfere in regulatory matters for the workflow of the ICR, 4- the claim of agent of the plaintiff that the atmospheres where the voting of non-satisfaction, had been disturbed by many legal violations, but he didn't clarify the constitutional text which does not allow tensioned atmospheres and hand fighting or retreating from the session, if happened, as for postponements requests, it didn't meet acceptance by the council, and what occurred never violates the constitution. On the appointed day of proceeding the court had been convened, the agent of the plaintiff the barrister (sheen. seen .seen) attended according to his power of attorney attached to the file of the case, also the agents of the defendant/ being in this capacity the legal officials has attended (seen.taa'.yaa') and (haa'.meem.seen) according to their private power of attorney which attached to the file of the case, the public in presence pleading initiated, the agent of the plaintiff repeated what is listed in his petition of the case and requested to judge according to it, and to burden the defendant the expenses. The two agents of the defendant repeated what has come in the answering draft on the case petition presented to the court on 9.27.2016. They added that the plaintiff has built his case on the duration stipulated

in the constitution, claiming that the satisfaction or not should be subject to the duration stipulated in the questioning, and the constitution distinguishes between questioning process which ends with satisfaction or not. And the bylaw didn't determine a duration, and assigning that to the council. The agent of the plaintiff answered that he didn't get persuasive answer from the defendant about what is mentioned in his client's case petition, his request, the duration to form satisfaction after seven days from the end of questioning, and the two agents of the defendant presented a written draft to the court on 10.24.2016, in which they discussed the subject of the duration stipulated in article (61/7<sup>th</sup>/c) of the constitution, that the mentioned duration in the constitution as they comprehend according to what they listed in their answering draft presented to the Court, and the honorable court possesses the right to interpret the mentioned duration if it meant what comes after the questioning request presented, till the questioning, according to their sayings and in their drafts, or what comes after accomplishment of the questioning till voting on convincing, as the agent of the plaintiff sees, according to act the provisions of article (93/2<sup>nd</sup>) of the constitution, as for the ex-parliamentary experiment which concerns in questioning of Minister of Defense, which produced withdrawal of confidence from him, as the referred to questioning, had been achieved in session No. (8) On 8.1.2016 and voted on satisfaction in session No. (12) On 8.15.2016, while the confidence and withdrawal of confidence submitted in session No. (14) On 8.25.2016. It is the first time to withdraw a confidence from a minister according to a questioning during the current cycle. As for the plaintiff who had been questioned in session No. (14) On 8.25.2016 and voted on satisfaction in session no. (15) On 8.27.2016, while the withdrawal of confidence occurred in session No. (17) On 9.21.2016. They requested to reject the case and burdening the plaintiff the expenses. The agent of the plaintiff answered what has been listed of the defendant's two agents in a answering draft dated on 10.26.2016, clarifying that the defendant repeat his defends resting on the constitutional article No. (61/8<sup>th</sup>/a) of the constitution, which related to the constitutional conditioned duration to proceed the confidence withdrawal, while

the subject of the case is based on the violation of article (61/7<sup>th</sup>/c) of the constitution, and the defendant was unable to deny the logical and objective interpretation which corresponds to the provisions and the bylaw of the ICR, and the principle of fair and equality which provided by constitutionally granted duration, which is not less than seven days indicated to in article (61/7<sup>th</sup>/c) of the constitution, whether to the ICR to scrutinize and verifying the answers and documents and facts which are listed and discussed by the questioned minister during the questioning session, or the granted ones to the questioning person himself. To be noted that the ICR may need a long time exceed weeks or months to reach satisfaction or not with the questioned responsible answers, which corresponds to the provisions of article (61/7<sup>th</sup>/c) of the constitution, the agent of the defendant didn't support his answers with precedents used to be active in the ICR related to proceed discussion in questioning then voting on non-satisfaction within a period less than a week from the date of voting. He concluded that the decision impeached against had violated the private formality of the constitutional conditioned durations to vote on satisfaction with the answers of his client. As a result, this has affected the objective aspects which concerns in satisfaction for the answers of the questioned, which caused the issuance of incorrect decision by the defendant because the decision was unconstitutional, and repeated his previous defends and requested to regard the decision unconstitutional by the defendant on 8.27.2016 which relates to non-satisfaction with the answers of his client and to cancel all the traces based on it, the Court reviewed the answer of the ICR according to the letter from (legal dept.) No. (78/federal/2016) on 11.29.2016 concerns in the precedents which occurred in ICR in field of questioning the ministers and the speaker of independent commissions, and how they were questioned and the durations which actually determined the questioning process, and the decision that the ICR made after the questioning process, also the stage of satisfaction and non-satisfaction and if any constitutional text listed in, as the letter included detailed table contains the required information by this court which relates to the cases of questioning that had been achieved in three cycles of the ICR,

whether they ended by withdrawal of confidence or not, including the durations related to the questioning or dismissal of the plaintiff, and the request of questioning the plaintiff presented on 2.18.2016, as for the enquiry of the Court about the satisfaction subject and the duration which separates between them and between granting confidence to the questioned, the process inside the ICR about that had been achieved according to the shown details in the letter, and achieved by resting on provisions of articles (61/7<sup>th</sup>/c) and (61/8<sup>th</sup>/a) of the constitution, and after scrutinizing the listed details in the letter, the Court didn't find what may support the agent of the plaintiff's claims about it, the agent of the plaintiff repeated what came in the petition of the case and illustrative drafts and requesting to judge according to it. The two agents of the defendant repeated their sayings and previous requests and requested to judge according to them, whereas nothing left to be said the plead was ended and the decision made clear publicly.

### The decision

After scrutiny and deliberation by the FSC, it has been found that the agent of the plaintiff impeaching the petition of his client's case, especially the clause of listing satisfaction subject with the answers of the questioned (the plaintiff) on Saturday 8.27.2016, regarding them violate the constitution, resting on provisions of article (61/7<sup>th</sup>/c) of which, which stipulates on (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 FSC finds that the duration stipulated in article (61/7<sup>th</sup>/c) of the constitution goes to its clarity to the period between presentation questioning request and accepting it, and between the questioning incident occurring. It is not possible for the questioned to be attended unless this duration ended at least, to enable him from preparing answers on the questions which included the questioning request, with answering documents, and never goes to the satisfaction of ICR members with the answers of the questioned or

not, so the evaluation of that returns to the members of the ICR and the members of the council shall never be restricted in general to any constitutional duration to form satisfaction or not, therefore the claim of the plaintiff has no legal title in the constitution or the code, which requires to reject it, therefore the FSC decided to judge by rejecting it, and to burden the plaintiff expenses and advocacy fees for the two agents of the defendant/ being in this capacity the two legal officials (seen. taa'. Yaa') and (haa'.meem. seen) a sum of (100.000) one hundred thousand Iraqi dinar divided between them in two halves, the decision issued publicly in presence and decisive and unanimously on 12.20.2016.