

Republic of Iraq
Federal Supreme Court
Ref. 128 / federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 1/6/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Applicant: the Representative Ali Al-Saidi

The Subject: inquiry about the legality of working by the text of the article (61/8th) of the Constitution and the articles (35,37,38) of the ICR's and its formations Law No. (13) for 2018 in the present time about daily affairs conducting government.

The Request

According to the letter issued by his office in the number (39 on May 16, 2022), a member of the Iraqi Parliament, Ali Al-Saidi addressed the President of the Federal Supreme Court to inquire about (1). The legality of the provision of the article (61/8th) of the Constitution and articles (35, 37, and 38) of the Council of Representatives Law and its formations No. (13) of 2018 for the time being toward the caretaker government? (2). Are there legal implications for the violation of constitutional terms by the Council of Representatives or any other authority? (3). Is it the prerogative of the current President of the Republic to send bills in accordance with article (60) of the Constitution? (4). How legal is it for the Prime Minister or ministers

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to appoint Directors-General, division leaders and above, the army chief of staff, his assistants, ambassadors, private grading holders, and the head of the intelligence service agency for more than (6) months without submitting them to the Council of Representatives for a vote in accordance with article (61/5th) and Article (80) of the Constitution, in accordance with the details referred to in the request, the conclusion of which lies in the following (based on the text of article (15/2nd) of the Law of the Council of Representatives and its formations No. (13) of 2018, it is no secret to the justice of your esteemed court the political crisis that Iraq is going through reflecting its negative effects on the Iraqi citizen and the violation of constitutional terms and the fact that the core of the work of the Iraqi Parliament is legislation and overseeing as stipulated in article (61) of the Constitution of the Republic of Iraq and since the ministerial cabinet and the president of the Council of Representatives are the main act of the Iraqi Parliament. Ministers, independent bodies, and departments not associated with a ministry are by virtue of day-to-day conduct and according to your jurisdiction in accordance with article (4th) of the Federal Supreme Court Law in effect). Therefore, he is inquiring about the subjects above-mentioned and adding (the daily affairs conducting may continue for the next year or two, and this matter will create political, social, and legal confusion in case the political crisis last without any solution and no general budget, the only damaged party is the Iraqi citizen. Please be briefed, and answer us as soon as possible to enable us from executing our monitory role and moving within the legal frames, ver thankful for your cooperation.. with appreciation). Accordingly, the inquiry request was presented for the subjects above-mentioned.

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The decision:

When scrutinized and deliberated by the Federal Supreme Court, it became clear that the application, the conclusion of which included an inquiry into the federal Supreme Court's opinion on ((the legality of the provision of the article (61/8th) of the Constitution and articles (35, 37 and 38) of the Council of Representatives Act and its formations No. (13) of 2018 at present towards the Caretaker Government of The Day? Are there legal implications for the violation of the Constitutional durations by the Council of Representatives or any other authority? Is it the prerogative of the current President of the Republic to send bills in accordance with article (60) of the Constitution? How legal is it for the Prime Minister or ministers to install general managers, team leaders and above, the army chief of staff, his aides, ambassadors, private grading holders and the head of the intelligence service agency for more than (6) months without submitting them to the Council of Representatives for a vote in accordance with article (61/5th) and Article (80) of the Constitution?)), in accordance with the detail referred to in the application, the Federal Supreme Court finds that its terms of reference and powers are defined under articles (52 and 93) of the Constitution of the Republic of Iraq 2005 and article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and articles contained in other special laws, including opinion and advice on inquiries contained in the request, this court is not a body for giving opinion and advice, and therefore this court is not competent to decide or advise on the inquiries referred to in the application, in accordance with the constitutionally prescribed principle of judicial independence in articles (19, 87, 88 and 89, 90,

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91, 92/1 and 93) of the Constitution of the Republic of Iraq 2005, and because this court has no jurisdiction to answer or give opinion and advice on the request, the Federal Supreme Court has decided to dismiss the request in form. The decision has been issued unanimously, decisive and binding for all powers according to the provisions of the articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on dated 1/Dhul Qaeda/1443 Hijri coinciding 1/June/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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