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The Federal Supreme Court (F.S.C.) convened on 8.9.2021 headed by Judge Sameer Abbas Mohammed and the membership of the judges Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali, and Monther Ebrahim Hussain who are authorized to judge in the name of the people, they made the following decision:

**The plaintiff:**

Atwan Sayed Hassan / his attorneys are Ahmed Fakhry Abdullah and Yasser Mohamed Mahmoud.

**The defendant:**

The Speaker of the Iraqi Council of Representatives (I.C.R.)/ in addition to his post – his agents the legal advisor Haithem Majid Salim and the legal official Saman Muhsen Ebraheem.

**The claim:**

The plaintiff claimed through his attorney that the defendant, in addition to his post, issued the Iraqi Parliament Elections Law No. (9) of 2020 and upon reviewing Article (38/First) of it, it was found that it is in violation of the Constitution of the Republic of Iraq for the year 2005 because manual counting and sorting of voters' votes was not fully approved and made in a manner partial in contrary to the constitution in Articles (2 / 1<sup>st</sup>/ B - it is not permissible to enact a

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law that contradicts the principles of democracy), and (5 - the rule of law, and the people are the source of powers and their legitimacy, exercised by direct secret public election and through its constitutional institutions) and (13/first -This constitution is considered the supreme in Iraq, and it shall be binding for all parts of it, without exception) and (14- Iraqis are equal before the law without discrimination based on gender, race, nationality, origin, color, sect, belief, opinion, economic or social status), and (16-Equal opportunities is a right guaranteed to all Iraqis, and the state guarantees that the necessary measures are taken to achieve this). Therefore, he requested to call upon the defendant to plead and judge the unconstitutionality and invalidity of Article (38/First) of the Iraqi Parliament Elections Law No. (9) for the year 2020 for violating Articles (2/first/b, 5, 13/first, 14 and 16) of the Constitution of the Republic of Iraq for the year 2005 and charging him with all fees, expenses and attorney's fees, based on the provisions of Article (1/Third) of the bylaw of the Federal Supreme Court No. (1) of 2005. The case was registered before this court in No. (105/Federal/2021), and the defendant was informed, in addition to his post, of its petition based on the provisions of Article (2/First) of the above bylaw. His agents responded with the draft dated 17.8.2021 stating that Iraqi Representatives elections law No. (9) of 2021 legislated by the Council of Representatives based on the provisions of Articles (49 and 61/first) of the constitution, and that the text that the plaintiff's representative requests to rule unconstitutional came as a legislative

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option that regulates the mechanism for counting votes of the election results and does not violate the constitutional texts, and requests that the plaintiff's case to be dismissed and charged all expenses, judicial fees and attorney's fees, after completing all the procedures stipulated in Article (2/Second) of the bylaw of the Federal Supreme Court, a date was set for the pleading and the two parties were notified. On that date, the plaintiff's attorney Yasser Muhammad Mahmoud, and the defendant, the Speaker of the Council of Representatives / in addition to his post and his attorneys all attended, the legal advisor Haitham Majed Salem and the legal official Saman Mohsen Ibrahim and started the public pleading, the plaintiff's attorney repeated the petition of the case and asked for the ruling according to what was stated in it. added during the pleading session that the counting and manual sorting achieved better results, as the defendant's attorneys, in addition to his post, repeated what was stated in their answer draft dated 17/8/2021 and requested that the plaintiff's suit be dismissed for the reasons stated therein. where there is nothing left to say, the Court decided the conclusion of the pleading and issued its following decision in public.

**The decision:**

Upon examination and deliberation by the Federal Supreme Court, it found that the plaintiff challenged the unconstitutionality of Article (38/First) of the Iraqi Parliament Elections Law No. (9) of 2020, which states (First: The Commission adopts electronic results

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acceleration devices and is committed to announcing the preliminary results within (24) hours from the end of the poll, and the manual counting and sorting process is conducted to match by one station from each electoral center. The electoral center and the results are based on manual counting and sorting. In the event of an appeal in any polling station, the High Commission is committed to the task of re-counting and manual sorting and in the presence of political party agents, and the results of manual counting and sorting are approved) for violating Articles (2/first/b, 5 and 13) First, 14 and 16) of the Constitution of the Republic of Iraq for the year 2005. the Federal Supreme Court finds that the article subject of the appeal does not contradict the provisions of the constitution and that the method of electronic counting and sorting stipulated in Article (38 / first) of the law that (9) for the year 2020, followed in all countries of the world, and this was reinforced by the Iraqi legislator with manual counting and sorting to match the results and with one station from each electoral center. for all stations of the center and the results depend based on manual counting and sorting. In the event of an appeal in any polling station or any polling station, the Commission is committed to re-counting and manual counting in the presence of political party agents, and the results of counting and manual sorting are approved, and that this procedure does not constitute any constitutional violation and is considered a guarantee of the integrity of the elections. And the absence of any forgery, and for the foregoing and for the absence of a constitutional violation, the

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Federal Supreme Court decided to dismiss the claim of the plaintiff, Atwan Sayed Hassan, and to charge him the fees and judicial expenses and attorney fees for the defendant's representative, the Speaker of the Iraqi Parliament / in addition to his post, the legal advisor Haitham Majid Salem and the legal employee Saman Mohsen Ibrahim an amount of one hundred thousand dinars to be distributed between them in accordance with the law, and the ruling was final and binding on all authorities based on Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 and publicly understood on Muharram 30, 1443 AH corresponding to 8/9 /2021 AD

Signature of  
The president

**Sameer Abbas  
Mohammed**

Signature of  
The member

**Ghaleb Amer Shnain**

Signature of  
The member

**Haidar Jaber Abed**

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Signature of  
The member

Signature of  
The member

Signature of  
The member

**Haider Ali Noory**

**Khalaf Ahmad Rajab**

**Ayoub Abbas Salih**

Signature of  
The member

Signature of  
The member

Signature of  
The member

**Abdul Rahman  
Suleiman Ali**

**Diyar Muhammad  
Ali**

**Monther Ebrahem  
Husain**

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