



---

The Federal Supreme Court (F.S.C.) has been convened on 30.10.2013 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 whom are authorized in the name of the people to judge, they made the following decision:

### **The Request:**

The Representative Dr.Haider Al-Abady Member of the Iraqi Council of Representatives (I.C.R.) in the letter no.(mim. nun. /116) on 21.10.2013 issued by his office in the I.C.R. requested the F.S.C. to state the opinion of the following ((in referring to the decision of the F.S.C. no.(12/federal/2010) which rule the unconstitutionality of paragraph (4<sup>th</sup>) of article (3) of the law no.(26) for 2009 the amendment law of the elections law no.(16) for 2005)), as the Independent High Electoral Commission when implemented the mentioned article didn't (transfer the voter' vote without his will from the candidate he chose to another one from different list) as stipulated in the F.S.C. decision no. (12/federal/2010), Please kindly state the following:-



---

If there is violation to the court decision or not if the work was done according to the current paragraph (4<sup>th</sup>) of article (3) of the law no. (26) for 2009 and implementing it on the results of the upcoming parliamentary elections, considering that the mentioned article didn't allow the election commission to transfer the votes of the losing entity to the winner entity, as the Committee didn't do that at all. The request has been scrutinized and deliberated by the F.S.C. and it decided the following:

**The decision:**

During scrutiny and deliberation by the F.S.C., it found that the Representative Dr. Haider Al-Abady Member of the Iraqi Council of Representatives (I.C.R.) in the letter no.(mim. nun. /116) on 21.10.2013 issued by his office requesting the F.S.C. to state the opinion of the following (If there is violation to the Federal Supreme Court decision no.(12/federal/2010) or not if the work was done according to the current paragraph (4<sup>th</sup>) of article (3) of the law no. (26) for 2009 and implementing it on the results of the upcoming parliamentary elections, considering that the mentioned article didn't allow the election commission to transfer the votes of the losing entity to the winner entity, as the Committee didn't do that at all), by reviewing the F.S.C. decision no.(12/federal/2010) on



---

14.6.2010 as the court stated decided that paragraph (4<sup>th</sup>) of article (3) of the law no.(26) for 2009 the amendment law of the elections law no.(16) for 2005 is unconstitutional, the F.S.C. decision consider as completed unit in its aspects, substantiations and the ruling paragraph issued in it, it cannot be fragmented, in addition the court decisions are final and binding on all authorities according to the text of article (94) of the constitution of 2005, therefore paragraph (4<sup>th</sup>) of article (3) of the law no. (26) for 2009 (the amendment law of the elections law no. (16) for 2005) is out of force for unconstitutionality, as for not implementing it by the Committee despite the obligatory of the decisions of the F.S.C. on all authorities, that consider violation to the constitutional provisions of the Federal Supreme Court. The decision was issued on 30.10.2013.