



The Federal Supreme Court (F.S.C.) convened on 30.11.2021 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The appellant:

Ahmed Muhammad Farhan - his attorney, Abd al-Hussein Khudair Abbas.

The request of appeal against:

The judgment was issued by Federal Supreme Court No. (144 / Federal / 2021) on 11/14/2021.

1-The request brief:

The appellant, Ahmed Muhammad Farhan, through his attorney, submitted his list to the Federal Supreme Court dated November 16, 2021, which was registered in No. (154/Federal/2021), after the legal fee was paid for it on the same date, and which included an appeal against the ruling issued by this court in No. (144/Federal/2021) on 11/14/2021 containing (the ruling unconstitutional of the phrase (otherwise, the alternative for it will be the one who obtained the highest votes from the losing candidates from his list in his constituency) and the phrase (individual candidate) of Article (46) of The Iraqi Parliament Elections Law No. (9) of 2020 and its abolition, and the article remains in the following form (the winning candidate

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in the parliamentary elections is obligated to take the constitutional oath within a maximum period of one month from the date of the first session, and in the event that the oath is not taken by the winner, the alternative will be the highest loser in his constituency), for the reasons referred to in the regulation, the summary of which lies in the following: (The parliamentary elections for the year (2021) were held, with the entry into force of Article (46) of the Iraqi Parliament Elections Law No. (9) of 2020, which states that in the event of failure to take the oath Constitutional by one of the winner, then he shall be replaced by the highest losers from his bloc, and after the results of the winners are released, he is surprised by the amendment of the aforementioned article, so that the replacement is for the highest losers in his constituency, and since the aforementioned article before the amendment was approved by the President of the Republic, and since the challenger is one of the candidates for the second constituency Salah al-Din Governorate. Based on the foregoing, a request to reinstate the text of the aforementioned article in its previous formulation before the issuance of the aforementioned decision of this Court.

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court and after reviewing the aforementioned appeal list, it became clear that it focused on appealing the decision issued by this court in No. Otherwise, the alternative for him who obtains the highest votes will be from the losing candidates from his list in his constituency) and the phrase (individual candidate) from Article (46) of the Iraqi Parliament Elections Law No. (9) for the year 2020 and its abolition,

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and the article remains in the following form (the winning candidate commits to the parliamentary elections By taking the constitutional oath within a maximum period of one month from the date of the first session. According to Article (93) of the Constitution of the Republic of Iraq for the year 2005 and Article (4) of its Law No. (30) for the year 2005 as amended by Law No. (25) for the year 2021, it was not among those powers to consider the Appeals against decisions and judgments issued by it, as the judgments issued by this court are not appealable by any method of appeal, as they acquire the final degree once they are issued as they are final and binding on all authorities based on the provisions of Article (94) of the Constitution and Article (5/Second) From the aforementioned Federal Supreme Court Law, just as the judgments issued by the Iraqi courts that have reached the final level are proof of the rights they have settled, and it is not permissible to accept evidence that contradicts the authority of the final judgments based on the provisions of Articles (105 and 106) of the Evidence Law No. 107 of the year Amended 1979, In addition to the foregoing, the definitive and mandatory principles included in the decisions and rulings issued by this court when ruling the unconstitutionality of a provision in a law or law, prevents the Council of Representatives from enacting a new law or legal articles in conformity with the articles that have been ruled unconstitutional, especially Re-enforcement of the text of Article (46) of the Iraqi Parliament Elections Law No. (9) of 2020 in its previous form before the issuance of the aforementioned court's decision requires legislative intervention by the Council of Representatives, which is impossible to achieve for a violator The mandatory character of the provisions of this court is granted to all authorities, including the

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legislative authority, in addition to the lack of jurisdiction of this court in legislation, as it is one of the tasks of the legislative authority in application of the principle of separation of powers stipulated in Article (47) of the Constitution, which requires that the appeal be rejected. In form, and for what preceded, the Federal Supreme Court decided to reject the appeal in form, and the decision was issued by agreement conclusive and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005 Amended by Law No. (25) of 2021 on Rabi' Al-Akhir 24/1443 AH corresponding to November 30, 2021 AD.

**Signature of
The president**

*Jasem Mohammad
Abbood*

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