

Republic of Iraq

## Federal Supreme Court

72 / federal/ 2009

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The Federal Supreme Court convened on November 19, 2009 under the chairmanship of judge Mr. Medhat Al Mahmoud and the membership of the following judges:

Mr. Farouk Mohamed Al Samy, Mr. Jaafar Naser Husain, Mr. Akram Taha Mohamed, Mr. Akram Ahmad Baban, Mr. Mohamed Sa'eb Al Naqshabandy, Mr. Aboud Saleh Al Tamimy, Mr. Mikhail Shamshoun Qess Korkis, and Mr. Husain Abou Al Temman who are authorized to render judgment in the name of the people. They issued their following decision:

In Response to the Council of Representatives memorandum # (M. Kh/1/3/274) on November 18, 2009 inquiring about the constitutionality of the reasons upon which a member of the Presidential Council based his abstinence to the first amendment for the election law # (16) for the year 2005.

This request for clarification was checked and scrutinized carefully and, after deliberation, the Federal Supreme Court in its session held on November 19, 2009 found that this subject focuses on how the members of the Council are being chosen, consequently we referred to the provisions of the first division of the first section (the Legislative Authority) and in particular Article # (49) of the Constitution which explains this subject, we reached the following opinion:

### The opinion

Upon checking, verification, and after deliberation in the Federal Supreme Court; we found that the composition of the Council of Representatives is governed by Article # (49) of the Iraqi Republic Constitution which states:

First – The Council of Representatives consists of a number of members each represents one hundred thousand Iraqi citizen from all different constituents of the people. Paragraph (fourth) of the previously mentioned Article states (the Election Law specifies that women representatives should not be less than one fourth of the total number of the representatives)

Through our review of the previous two paragraphs (of this Article), we find that the Iraqi Constitution did not differentiate between the Iraqis living inside Iraq or outside it. It requires that the choice of the members of the Council should be based on representing all the different constituents of the Iraqi people, their election is done by public secret ballot and that at least one fourth of them should be women.

The Federal Supreme Court finds that the election system is the responsibility of the Independent High Commission for Elections.

Ended

Signed

Medhat Al Mahmoud  
Federal Supreme Court Chairman