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The Federal Supreme Court (F.S.C.) convened on 13.2.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali, and Khaled Taha Ahmad, who are authorized to judge in the name of the people, they made the following decision:

### **Interpretation of a constitutional text**

#### **The request:**

The President of the Republic, Mr. Barham Salih, requested from the Federal Supreme Court in his letter No. (Mim.Ra.Sin./1/3/295 on 8.2.2022) which included the following text:

((Due to the completion of the Council of Representatives in its fifth term the requirements of articles (54 and 55) of the Constitution, and the failure to complete the requirements of Article (70) of the Constitution related to the election of the President of the Republic, due to the lack of a quorum set by your esteemed court under its decisions No. {7 unified with 9 and 10/federal/2022} and {16/federal/ 2022} on 3.2.2022 in the session on 7/2/2022. We ask your esteemed court to interpret Article (72/Second) as the text did not deal with the case when the Council is unable to fulfill the constitutional requirement contained in Paragraph (Second) above

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and dealing with the situation in relation to the practice of the President of the Republic to performs his duties to avoid a constitutional void until the requirements of Article (70) of the constitution are completed.))

**The decision:**

The request submitted by the President of the Republic, Barham Salih, dated 8.2.2022, which includes the request for the interpretation of Article (72/Second) of the Constitution of the Republic of Iraq for the year 2005, was placed under scrutiny and deliberation by the Federal Supreme Court in its session held on February 13, 2022, and it reached the following:

First: Article (72/first) of the Constitution of the Republic of Iraq stipulates that (the term of office of the President of the Republic is limited to four years, and he may be re-elected for a second term only.) Thus, the term of the President of the Republic is for four years and he may be re-elected for the second time only.

Second: Paragraph (Second/A) of Article (72) of the Constitution stipulates that (the term of office of the President of the Republic ends with the end of the session of the Council of Representatives), and since Paragraph (B) of Article (72/Second) of the Constitution stipulates that (The President of the Republic continues to exercise his duties until after the end of the elections for the new Council of Representatives and its meeting, provided that a new President of the Republic is elected within thirty days from the date of the first session of the Council.) Therefore, the continuation of the President of the Republic in carrying out his duties is linked to the election of a new President of the Republic in accordance with

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what was mentioned in the aforementioned paragraph (b), In the event that a new president is not elected due to some circumstance or an emergency situation, the necessity requires balancing between the presence of a president of the republic necessitated by the supreme interest in the country and the expiry of his term by four years and the inability to exceed it, as the failure of the members of the Council of Representatives to attend the time specified for the election of the president of the republic and the lack of a quorum led to the failure to elect a new President of the Republic within thirty days from the date of the first session of the Council of Representatives requires that the President of the Republic continue to exercise his duties until the election of a new President of the Republic to replace him, as the equality between what is required by necessity and the public interest is an absolute necessity. Because of the constitutional principles represented in the federal authorities exercising their powers and tasks based on the principle of separation of powers, this requires the President of the Republic to continue exercising his duties until the election of a new president.

Third: According to Article (67) of the Constitution of the Republic of Iraq, which states: (The President of the Republic is the head of the state and the symbol of the nation's unity, represents the sovereignty of the country and ensures compliance with the Constitution, and the preservation of Iraq's independence, sovereignty, unity, and territorial integrity, in accordance with the provisions of the Constitution.) This requires the orderly functioning of public authorities and the continuity of state institutions, which is considered a guarantee of national independence and does not disturb the general situation in the country.

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Fourth: Article (72/second/c) stipulates (in the event that the position of the President of the Republic becomes vacant for any reason, a new President shall be elected to complete the remaining term of the President of the Republic.), and Article (75/ Fourth) of the Constitution stipulates (In the event of a vacancy). The position of the President of the Republic, the Speaker of the Council of Representatives replaces the President of the Republic in the absence of a Vice President, provided that a new President is elected within a period not exceeding thirty days from the date of the vacancy, in accordance with the provisions of this Constitution. The position of the President of the Republic in the event that the position of the President of the Republic becomes vacant and there is no deputy for him, and that the vacancy of the position of the President of the Republic differs from the end of the term of the President of the Republic, and that the vacancy is achieved during the term of the President of the Republic for any reason. Based on all of the foregoing, the Federal Supreme Court finds that the President of the Republic continues to exercise his duties until the election of a new President of the Republic of Iraq, despite the end of his term at the end of the parliament session. The decision was issued by agreement and is conclusive and binding on all authorities based on the provisions of Articles (93/Second and 94) of the Constitution of the

Signature of  
The president

Republic of Iraq for the year 2005 and was issued in the session dated Rajab 11/1443 AH corresponding to 13.2.2022 AD.

*Jasem Mohammad  
Abbood*

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