

Republic of Iraq
Federal Supreme Court
Ref 40/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 29/1/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali and Munther Ibrahim Hussain, who are authorized in the name of the people to judge and they made the following decision:

Applicant for interpretation: Mohsen Al-Mandalawi / D. Head of the Council of Representatives / being in this capacity.

Subject of the request: Interpretation of what is meant by absolute majority and simple majority contained in the Law of Non-Organized Governorates in territory No.(21) of 2008 ,as amended ,and the number number required to achieve an absolute majority and a simple majority in the provinces of Basra and Baghdad.

Summary of the request:

The Federal Supreme Court received the request submitted by Mohsen Al-Mandalawi / Speaker of the Council of Representatives / being in this capacity, entitled Inquiry, according to the letter of the Council of Representatives / President's Office No. Mim.Ra/9 on 23/1/2024, registered in No. (40/Federal/2024). Whereas Article (122/4th) of the Iraqi Constitution stipulates that (regulated by the Provincial Council Election Law and its powers), and whereas Article (9/2nd/Alif) of Law No. (4) of 2023, the Third Amendment Law to the Elections Law of the Council of Representatives, Provincial Councils and Districts No. (12) of 2018, as amended, has stipulated that ((The provincial council consists of (12) twelve seats, in addition to one seat for every (200,000) two hundred thousand people for more than (1,000,000) million

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people, according to the statistics of the Ministry of Planning for the year 2019 and as shown in Table (2) attached to the law)), Whereas Table No. (2) attached to Law No. (4) of 2023 Law on the Third Amendment to the Law on the Elections of the Council of Representatives, Provincial Councils and Districts No. (12) of 2018, as amended, has set the total number of seats for the Basra Provincial Council at (22) seats, and the total number of seats for the Baghdad Provincial Council at (49) seats, Whereas the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, included multiple expressions for the required majority of the votes of the members of the Provincial Council when performing their duties, depending on the degree of The importance of the subject to vote in the Council, Whereas Article (1) of the Law No. (21) of 2008, as amended, stipulates that (the following terms for the purposes of this law shall have the meanings assigned to them: Tenth: Absolute majority: achieved by more than half of the members of the Council. Eleventh: Simple majority: achieved by more than half of the number of members present after the quorum is reached.) Whereas Article (19) of the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, stipulates (First: The quorum for the meetings of the Councils shall be achieved in the presence of an absolute majority of the number of members. Second: Decisions shall be taken in the sessions of the provincial council and local councils by a simple majority, unless otherwise specified). Whereas the Federal Supreme Court, by its decision No. (90/Federal/2019), had previously amended the previous principle related to the interpretation of the majority contained in its decision No. (23/Federal/2007) and considered it a new principle, and in view of the many jurisprudence in determining the number required to achieve a quorum for voting or convening in

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provincial councils, especially in the governorates of Basra and Baghdad, Whereas some argue that the definition of absolute majority contained in the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, means half of the total number + one, This is what some believe is incompatible with the number of the Council if its number is odd and for the purpose of determining the number required to achieve a quorum when voting or convening without ambiguity, ambiguity, diligence or incorrect interpretations, In line with the constitutional provisions, In line with the constitutional provisions, please explain what is meant by absolute majority and simple majority contained in the amended Governorates Not Organized in a Region Act No. 21 of 2008 and the number required to achieve an absolute majority and a simple majority in the governorates of Basra and Baghdad After reviewing the aforementioned request and made it is scrutinies, the Court issued the following decision:

The Dicision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the application was submitted for the purpose of explaining and clarifying what is meant by the absolute majority and the simple majority contained in the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, and the number required to achieve an absolute majority and a simple majority in the governorates of Basra and Baghdad. The Federal Supreme Court finds that the application must be rejected for lack of jurisdiction, the competences and powers of this court are exclusively stipulated in Articles 52 and 93 of the Constitution of the Republic of Iraq of 2005 and Article 4 of the Federal Supreme Court Law No. 30 of 2005, as amended by law. No. (25) of 2021, and some other special laws, and none of those

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competencies and powers gives the court jurisdiction to interpret the texts of laws, except on the occasion of challenging their unconstitutionality, It also does not have the competence or authority to respond to an inquiry received from one of the official authorities, one of the authorities in the State, unions or federations, in particular, the subject matter on which an opinion is requested is likely to be the subject of an existing dispute in the future and litigation before this Court, therefore, Due to the lack of jurisdiction of this court to decide on what is stated in the application and to respond to the inquiry contained therein, Therefore, the Federal Supreme Court decided to reject the inquiry request submitted by Mohsen Al-Mandalawi/ Speaker of the Council of Representatives / being in this capacity, for lack of jurisdiction, It was issued by agreement in accordance with the provisions of Articles 93 and 94 of the Constitution of the Republic of Iraq for the year 2005. The decision has been issued unanimously in accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4,5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021. The decision has been made clear on 17/Rajab/1445 AH corresponding to 29/January/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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