

**In The Name Of God, Most Gracious, Most Merciful**

**Republic of Iraq  
Federal Supreme Court  
Ref.65 /Federal/Media/2014**



**Kurdish text**

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The Federal Supreme Court has been convened on 22/6/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, Michael Shamshon Qas Georges, and Hussein Abbas Abu Al-Temman, who authorized in the name of the people to judge and they made the following decision :

**The Request:**

the presidency of the public prosecution requested in the letter No.(111/2014) dated on 2/6/2014 from the court to try the challenge of the representation of the public prosecution in Al-Karradah for the unconstitutionality of the clause (5<sup>th</sup>) from the article (10) from the law of travels passports No.(32) of 1999 (( no new passports shall be granted to who issued against him a judgment of conviction based on the clause (Alif) from the item, only after one year from the starting of the mentioned judgment. The secretary of the president of the republic could- in conditions he considers- grant him a new passport before the end of the mentioned period.)) the clause (Alif) mentioned by the clause (Jim) the subject of the challenge stipulated: ((Whoever neglects the loss or damage of his valid passport in whole or in part shall be punished with detention for a period not exceeding one year.)) the challenge -for the unconstitutionality of the clause (Jim) from the item (5<sup>th</sup>) of the article (10) for the law of travels' passports- was based on the violation of the provisions of the article (44/1<sup>st</sup>) from the constitution of the Republic of Iraq 2005 ((Each Iraqi has freedom of movement, travel, and residence inside and outside Iraq.)) because it prevents to issue a new passport for Whoever neglects the loss or damage of his valid passport after

being convicted based on the clause (Alif) from the same item. The clause (Jim) –the subject of the challenge- is an additional penalty that followed the conviction according to the clause (Alif).

the request put under scrutiny and deliberation by the FSC in its session on 22/6/2014 and it reached the following decision

**The Decision:**

Since the judgment of conviction based on the provisions of the clause (Alif) of the item (5<sup>th</sup>) from the article (10) for the law of travels passports followed by an additional penalty stipulated by the clause (Jim) from the same item which is the deprivation of having a new passports for one year, the deprivation means to prevent the Iraqi citizen neglects the loss or damage of his valid passport and was charged because of that, this prevention contradicts the freedom of traveling that adopted by the constitution in the article (44/1<sup>st</sup>) and for a period he may need to travel for treatment or studying or other things although he has no intention of crime. The FSC finds that the penalty of deprivation from having a new passport in the above case violates the provisions of the article (44/1<sup>st</sup>) from the Constitution this Constitutional text has superiority in applying and any legal text that contradicts shall be annulled based on the article (13) from the Constitution. based on this the FSC decided the unconstitutionality of the clause (Jim) from the item (5<sup>th</sup>) of the article (10) for the law of travels' passports No.(23) of 1999. The decision was issued unanimously and decisive on 22/6/2014.