

Republic of Iraq
Federal Supreme Court
Ref. 129 / federal /2021



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/11/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jabir Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salah, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The Requestor of Inquiry: Salar Abdul Sattar Mohammed/ Minister of Justice.

First: the Abstract of the Request

The Federal Supreme Court received the letter of the Ministry of Justice/ Minister's Office in issue 9797 on September 7, 2021, to inquire about the validity of the decisions of the regional courts outside the territory, which included: (we received the letter of the representative of the government of the Kurdistan region of Iraq numbered (10167) in 6/5/2021 with its annex on the placement of the reserve reservation signal on the movable and immovable funds of the accused (Abbas Fadhil Abdul Rahman) and the funds of his wife and daughters based on the provisions of article (15) of the Integrity Commission Law of Kurdistan Region numbered (3) for 2011 the rate of illicit gain.

- Based on the provisions of Article (1) of Law No. (34) of 2007, the First Amendment to the Publishing Law in the Official Gazette No. (78) of 1977, which states (first- Iraqi facts are the official gazette of the Republic of Iraq, which is issued by the Ministry of Justice in

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Both Arabic and Kurdish so that the laws published in the newspaper are enforceable throughout the Republic).

- Article 28 of the Territorial Integrity Commission Law above indicates that it should be implemented from the date it is published in the Kurdistan Gazette, thus only enforceable in the province.
- It is within the jurisdiction of your esteemed court to adjudicate cases arising from the application of federal and territorial laws in accordance with article (4) of the Supreme Federal Court Law No. (30) of 2005, and the decisions of your court are now decisive and binding on all authorities based on the text of the article (94) of the Constitution of the Republic of Iraq 2005, based on which the inquiry was made.

Second-The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the Minister of Justice, in accordance with the letter issued by his office in the number 9797 of 7 September 2021, inquires from this court about the validity of the decisions of the regional courts outside the territory on the occasion of the receipt of the letter of representative of the Kurdistan region of Iraq numbered (10167) on 6 May 2021 with its annex to the Ministry of Justice on the placement of a pretrial detention signal on the movable and immovable funds of the accused (Abbas Fadhil Abdul Rahman) and the money of his wife and daughters based on the provisions of article (15) of the Integrity Commission Law In Kurdistan region numbered (3) for 2011 amended for illicit gain. Since the

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jurisdictions and powers of this Court are defined under articles (52 and 93) of the Constitution of the Republic of Iraq 2005 and Article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) for 2021 and the articles listed in other special laws did not include the answer to the inquiry concerning the validity of the decisions of the regional courts outside the territory, in particular that the jurisdiction of the Federal Supreme Court is held in accordance with the provisions of article (93/4th) of the above-mentioned Constitution to adjudicate disputes that occur between the federal government and the provincial governments and provinces and municipalities and local administrations, and the description (territorial government) referred to in the above-mentioned article does not go to the judiciary in the Kurdistan region and its courts, as article (121/1st) of the above-mentioned Constitution stipulates that (The regional powers shall have the right to exercise executive, legislative, and judicial powers in accordance with this Constitution, except for those authorities stipulated in the exclusive authorities of the federal government), as well as (paragraph fifth) of the same article stipulated (The regional government shall be responsible for all the administrative requirements of the region, particularly the establishment and organization of the internal security forces for the region such as police, security forces, and guards of the region). Since article (66) of the Constitution aforementioned, the federal executive has been defined as consisting of the President of the Republic and the Council of Ministers, and based on the above, the description (territorial government) referred to in article (93/4th) of the above-mentioned Constitution goes exclusively to the executive branch of the territory and does not go beyond others, including the judiciary and courts in the territory, and therefore there is no place

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for the application of the above-mentioned text to the subject that has been inquired about, however, article (116) of the above-mentioned Constitution stipulates that (The federal system in the Republic of Iraq is made up of a decentralized capital, regions, and governorates, as well as local administrations), and based on that, the Kurdistan region is part of the federal system in the Republic of Iraq, and if the regional courts are within their spatial boundaries competent to apply federal and regional laws as they are, including the Integrity Commission of the Kurdistan Territorial Integrity Law (3) of 2011 which related to the illicit gain, but the judgments issued by the courts of the Supreme Judicial Council or the courts in the territory in principle apply throughout the Republic of Iraq and are effective in applying to the principle of territorial jurisdiction and territorial integrity of the Republic of Iraq and to the independence of the judiciary, the judiciary and judges in accordance with the provisions of articles (19,87,88) of the above-mentioned Constitution, but this court is not competent to respond to the request for inquiry by the Minister of Justice, under the letter issued by his office in 7/9/2021 on the validity of the decisions of the regional courts outside the territory on the occasion of the receipt of the letter of the representative of the Kurdistan Region of Iraq numbered (10167) on 6 May 2021 with its annex to the Ministry of Justice on the placement of the reference of reserve detention on the movable and immovable funds of the accused (Abbas Fadhil Abdul Rahman) and the funds of his wife and daughters based on the provisions of article (15) of the Law of integrity in the province of Kurdistan numbered (3) for 2011 amended for illicit gain. Therefore, the FSC decided to reject the inquiry request in the form and to notify the Ministry of Justice/ the minister's office by this. The decision has been issued

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unanimously and decisive according to the provisions of the articles (93,94) of the Republic of Iraq Constitution for 2005 and the articles (4,5/2nd) of the Federal Supreme Court Law No. (30) for 2005 which was amended by the Law No. (25) for 2021 on 27/Rabea'a Al-Awal/1443 Hijri which coinciding 3/November/2021 AD.

**Signature of
The president**

**Jasem Mohammad
Abbood**

**Signature of
The member**

**Sameer Abbas
Mohammed**

**Signature of
The member**

Haidar Jaber Abed

**Signature of
The member**

Haider Ali Noory

**Signature of
The member**

Khalaf Ahmad Rajab

**Signature of
The member**

**Abdul Rahman
Suleiman Ali**

**Signature of
The member**

**Diyar Muhammad
Ali**

**Signature of
The member**

**Ghalib Amir
Shunayen**

**Signature of
The member**

Ayoob Abbas Salah

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