

In the name of God most Gracious most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 132/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 17. 11 .2021 headed by the Judge Jasem Mohammad Abod and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali whom are authorized to judge in the name of the people, they made the following decision:

Explication Requester: Wasit Governor Muhammad Jamil Mayahi.

Article to be Explained: Article (112/ 1st and 2nd) of the Constitution of the Republic of Iraq for the year 2005.

The Request:

The Governor of Wasit, Dr. Muhammad Jamil Al-Mayahi, requested from the FSC according to the letter of Wasit Governorate / Governor's Office in the number (1/1/430 on 9/27/2021) and its text (based on the text of Article (93/2nd) of the Constitution, please kindly your esteemed court for an explanation and clarification The meaning of the administration mentioned in the text of Article (112/1st and 2nd) of the constitution, does the lack of legislation of the oil and gas law give the federal government, represented by the Ministry of Oil, the right to administer this file without referring to the producing regions and governorates and coordinating with them in this aspect in accordance with the aforementioned constitutional

text, especially since the issue of oil and gas management is one of the most important files related to the economic aspect of those provinces).

The Decision:

After scrutiny and deliberation by the FSC, after reviewing the summary of the aforementioned request and the text of Article (112/ 1st and 2nd) of the Constitution of the Republic of Iraq for the year 2005, it became clear that the request related to the interpretation of the meaning of the administration referred to in the aforementioned article was contained in the letter of Wasit Governorate / Governor Muhammad Jamil AlMayahi's office. The FSC finds that the mentioned request must be answered in form for the following reasons: 1. The decision issued by this court No. (48/federal/2021) on 6/6/2021 specifies the parties that have the right to request interpretation, whether it is for articles of the constitution or for articles of law, with certain conditions, as it stated (that the interpretation should be on the occasion of an inquiry received exclusively from One of the federal authorities in the state, (the legislative authority is represented by the Council of Representatives and the Federation Council, the executive authority is represented by the President of the Republic and the Council of Ministers, the judicial authority is represented by the Supreme Judicial Council), or by the Prime Minister in the Kurdistan Regional Government), and thus the governor does not have the power to request interpretation of articles The Constitution, as it is not included in the description of the federal powers provided for and determined exclusively by the articles of the Constitution. 2. This court had previously stated in its decision No. (74/federal/2012) on 9/10/2012 that the contents of the request to specify the meaning of administration referred to in Article (112/1st and 2nd) of the Constitution constitute a dispute between the Ministry of Oil and other parties, which requires filing a lawsuit in accordance with the provisions Bylaw No. (1) of 2005, and on the basis of that, the case was filed before this court in No. (59/federal/2012) and is still under pleading, and the response to the request of the Wasit governor

referred to in his office's aforementioned letter regarding the interpretation of the meaning of administration contained in the text of Article (112/1st and 2nd) of the constitution, which represents a sense of opinion in the case referred to above before its time, this contradicts the general principles contained in the Law No. (83) of 1969 as amended, the principles of justice and the well-established and stable judicial norms in the applications of courts of all kinds and degrees. When it was presented, the FSC decided to reject the request of the Governor of Wasit (Mohammed Jamil Al-Mayahi) in the form, and to notify him of that. The final decision was issued on the basis of the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/2nd) of the FSC Law No. (30) of 2005 amended by Law No. (25) of 2021 and in agreement on 11/Rabi' al-Akhir/1443 coinciding with 17/November/2021.

Signature of
The president

**Jasem Mohammad
Abod**

Signature of
The member

Samir Abbas Mohamed

Signature of
The member

Ghaleb Amer Shnain

Signature of
The member

Haider Ali Noory

Signature of
The member

Haidar Jaber Abed

Signature of
The member

Khalf Ahmad Rajab

Signature of
The member

Ayoub Abbas Salih

Signature of
The member

**Abdul Rahman Suleiman
Ali**

Signature of
The member

**Diyar Muhammad
Ali**