

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 146/federal/2019



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 18.11.2019 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Request:

The ministry of education requested the F.S.C. by it letter No.(6/3/4/43500) dated on 5/11/2019 the following:

Sub/ Enquiry

((Greetings

In referring to the letter of Al-Diwanya governorate/ legal affair department No.(14561) on 1/8/2019 which included a request to state the opinion of your estimated court about the issue of the conflict between the provision of article (38) of the law of ministry of education No.(22) for 2011 with the state of article (62) of the Municipal administration law No.(165) for 1964 the governorate's

Federal Supreme Court - Iraq - Baghdad
Tel – 009647706770419
E-mail: federalcourt_iraq@yahoo.com
Mailbox- 55566

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opinion was that the law of ministry of education No.(22) for 2011 didn't directly refer to transferring the ownership of the mentioned lands without any compensation, about that we would like to refer to your estimated court that the legislation objective of the article (38) text is to treat the legal status that prevent the transferring of the lands ownership to the education ministry in order to achieve the public interest, as the referring to the opinion that state the obligation of paying compensation for transferring the ownership of these lands to the ministry of education revoke the objective of enacting this article, as this matter could be treated according to the laws in force before the enacting of the article such as the law of selling and leasing the state funds and other laws regard this subject in addition to the huge amount of money which will result from paying the compensations of these lands which exceed the budget of the ministry by multiple time, and that what was adopted in the decision of the state council No.(95) for 2017 (a copy of it is in the attachment) and was confirmed by the secretary general of the council of ministers by it circular No.(qaf/01/28736) on 25/8/2019 (a copy of it is in the attachment). Pleas to review and state your estimated court opinion.

With appreciation.))

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The decision:

During scrutiny and deliberation by the F.S.C. on its session dated on 18/11/2019 and found that its consideration is out of the F.S.C. jurisdiction that are stipulated in article (93) of the constitution and article (4) of the F.S.C. law No.(30) for 2005, as these jurisdictions didn't include the considering of the texts conflict with each other or with texts in other law. Accordingly the court decided to reject the request unanimously from the aspect of jurisdiction, the decision has been issued final according to the provision of article (94) of the constitution and article (5) of the F.S.C. law on 18/11/2019.

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