

# IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq  
Federal Supreme Court  
Ref. 21/federal/media/2016



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 6/4/2016 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Hussein Abbas Abu Al-Temmen, Ade Hateef Jabbar and Sulaiman Abd allah Abd AlSamad who are authorized in the name of the people to judge and they made the following decision:

## The Request

Baghdad Governorate Council (office of the President of the Council) requested by its inquiry letter No.(mim/Ra/1546) on (13/3/2016) addressed to /National Investment commission/ copy of it to the F.S.C., it stated the following:

We presents you with best regards. Your letter No.(qaf/356) on (11/2/2016), we clear that:

- 1) The law is part of the public order, the Iraqi constitution has stated in the section four of it the jurisdictions of the federal authority exclusively in article (107), the rest of the jurisdictions are exercised by the local authorities (Baghdad governorate council), and even the shared jurisdictions the priority for exercising it is for the local authority.

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*Atchraa*

- 2) Baghdad governorate council is the supreme legislative authority in the Baghdad governorate, it is responsible for monitoring the performance of the governorate departments (article 2 and 7) of the law of governorates not associated into a region, as it has been exercising its monitoring and supervision roll on the work of Baghdad investment authority, audit and evaluation committees were formed and records of their work were submitted to the Baghdad governorate to work according to what was stated therein.
- 3) What stated in your letter No.(2844) on (24/11/2015) is legal and administrative violation, we explained it in detail within the content of our letter No.(1638) on (2/2/2016), the article (34) of the law of investment is straight and inhibit any conflict with the provisions of the amendment law of investment No.(13) for 2006, and the valid laws are raised for the law of investment and the regulation No.(3) for 2009 that was issued by the council of ministers and its jurisdictions, and article (3) of the law of investment No.(13) is declarative not initiator which was mentioned in the regulation No.(3) for 2009, as it's an inseparable part of the law of investment, and considered as a law, and the violation is set by judicial and legislative party, so if the provisions of the regulation No.(3) for 2009 according to your opinion has included violations to the valid laws that will needs a pause for review.
- 4) As for what listed in (4) of your letter we do not disagree with you that the interpretation of the provisions of the law is not limited to a particular party, but the interpretation must be consistent with the provisions of the law, the interpretation of those parties is not binding as long as it was issued by an competent party, the binding interpretation of the provisions of the law is that provided by the

parliamentary bodies ((legislated or judicial)), we have been stating that in details within our letter No.(lam. Qaf/32/1638) on (2/2/2016), in response to your letter (qaf/2844) on (24/11/2015), however, we confirm that the oversight and evaluation of the work of the Baghdad investment commission exclusive jurisdiction for the Baghdad governorate council and there is no legal justification to involve your employees in the commissions of inquiry or review the evaluation of the work, the investigation and assessment minutes issued by Baghdad governorate council. The decisions of Baghdad governorate council are binding to all parties including Baghdad governorate, the provisions of article (7/4<sup>th</sup>) and article (31/2<sup>nd</sup>) of the amendment law of governorates not associated into a region No.(21) for (2008).

On the basis of his high concern to respect the provisions of the Constitution, Baghdad governorate council invites all parties to respect its decision, and that the federal parties should not interfere in his work, and to practice the legally granted authorities to the local authorities, seeks cooperation and coordination with all federal and local government bodies, which does not contradict with the provisions of the Constitution, and works to raise the level of services in the governorate of Baghdad, and to support the investment process for the good of the country and the development of the national economy.

Please to review this letter.. with appreciation.

In the copy of the aforementioned letter the council requested the Supreme Judicial Council/ Mr. President of the Federal Supreme Court, to clear whether the National Investment Authority has the jurisdiction to interpret the provisions of the laws, and whether the

investment is from the functions and jurisdictions stipulated in article (107) of the Iraqi constitution, and the legality of the intervention of the National Investment Commission in the work and exercise the powers and jurisdictions of the local authority of the Baghdad governorate council.

Please to review this letter.. with appreciation.

The request has been set under scrutiny and deliberation by the F.S.C., and it's made the following decision:

The Decision:

During scrutiny and deliberation by the F.S.C., the court found that the jurisdictions of the F.S.C. has been stipulated in article (93) of the constitution of republic of Iraq for 2005, and in article (4) of the F.S.C. law No.(30) or 2005, none of these jurisdictions included laws interpretation, or what listed in the request above. Therefore the request is out of the F.S.C. jurisdictions, so the court decided to reject it. The decision has been issued unanimously on 6/4/2016.