

Republic of Iraq  
Federal Supreme Court  
Ref. 65/ federal / ٢٠١٣



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 23.7.2013 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 whom are authorized in the name of the people to judge, and it issued the following decision:

### **The Request:**

The Iraqi Council of Representatives, according to its letter / Diwan / Parliamentary Department / Member Affairs / No. (9/1/4901) on 7/2/2013, requested the Federal Supreme Court to interpret Article (23 / Third / B) of the Iraqi constitution below and its following text:

Good greeting:

To take the necessary measures for the purpose of informing the Iraqi Council of Representatives to interpret Article 23 / Third / B of the Constitution, which states: Ownership of property for the purposes of demographic change is prohibited.

With regard to the following points:

1. The place: What is the spatial area covered by the demographic change at the level of cities and villages with



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specificities and historical population density? Or more than that?

2. Duration: Is not it necessarily that what happens in many demographic changes in an area with a national, religious or ethnic specificity, while a few are prevented? It is not necessary for the demographic change to happen once, but it may take place in several stages and in different numbers.
3. Ownership: The word ownership mentioned in the constitutional article means the state's distribution of lands and housing units and the sale and purchase of among citizens to acquire land and housing units for the benefit of citizens from outside the administrative unit with different specificity and whose continuation is a demographic change. With respect.

The request was placed under scrutiny and deliberation by the Federal Supreme Court, and the court reached the following:

### **The decision:**

During scrutiny and deliberation by the F.S.C., it found that the Article 23 / Third / B of the Constitution, which states: Ownership of property for the purposes of demographic change is prohibited. This means that the Iraqi constitution prohibits the titling or ownership by individuals or groups of real estate of all races and types and anywhere in Iraq, whether at the village,



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district, sup district or governorate level, and by any means of titling or ownership.

That is if behind that titling or ownership is the goal of demographic change and its national, ethnic, religious or sectarian peculiarities, as the text of Article (23 / Third / B) of the Constitution is contained in its ruling and is intended with other constitutional texts to preserve the population identity in its regions geography in Iraq, including nationalism, ethnicity, religion, sectarianism, and the like and restricting the text of Article (23 / Third / A) of the constitution that permits an Iraqi to own real estate anywhere in Iraq, because the text of Article (23/Third/B) of the constitution was mentioned after the text of Article (23 / Third / A) of the constitution in terms of codification order and because it was mentioned in the form of the absolute. This decision has been issued by agreement on 23/7/2013.