

Republic of Iraq
Federal Supreme Court
Ref. 291 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/12/2023 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

Applicant for Jurisdiction: Mosul Al-Ayman Investigation Court affiliated to the Presidency of the Nineveh Court of Appeal.

Subject of the request: Adjudication of the conflict of jurisdiction between the Right Mosul Investigation Court of the Presidency of the Nineveh Court of Appeal and the Bardarash Investigation Court of the Presidency of the Duhok Region Court of Appeal based on Article (93/8th/Alif) of the Constitution

The Request:

The Federal Court of Cassation referred to this court by its letter No. (21953 / Criminal Commission / 2023 dated 19/11/2023, and its annexes its decision No. 21953 / Criminal Commission / 2023 - Sequence: 10992 issued on 8/11/2023), The investigative papers of the accused (Tariq Muhammad Amin) in accordance with the provisions of Article (289) of the Penal Code No. (111) of 1969, as amended, to settle the conflict of negative jurisdiction between the Right Mosul Investigation Court affiliated to the Presidency of the Nineveh Court of Appeal. The Bardarash Investigation Court of the Presidency of the Dohuk Region of Appeal in the Kurdistan Region of Iraq, according to

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jurisdiction, and when placing the investigative papers and the decisions issued therein under scrutiny and deliberation, the Federal Supreme Court reached the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the expanded body in the Kurdistan Region Court of Cassation, by its decision No. (90/Expanded Commission/2020) on 9/2/2021, decided to refer the investigative papers of the accused (Tariq Muhammad Amin) in accordance with the provisions of Article (289) of the Penal Code No. (111) of 1969 as amended. On 23/7/2023, the Bardarash Investigation Court decided to refer the investigation papers to the Mosul Left Investigation Court to complete the investigation according to spatial jurisdiction pursuant to the provisions of Article (53/c) of the Code of Criminal Procedure, so the latter decided on 14/9/2023 Referring the investigative papers to the Right Mosul Investigation Court according to specific jurisdiction, and on 11/10/2023, the Right Conductor Investigation Court decided to submit the matter to the Federal Court of Cassation, so the Federal Court of Cassation issued its decision No. (21953 / Criminal Authority / 2023 - Sequence: 10992 on 8/11/2023), Containing the referral of the matter to this court to determine the competent court spatially based on Article (4/VIII/A) of the Federal Supreme Court Law No. (30) of 2005, as amended, Whereas the audit of the investigative papers of the accused (Tariq Muhammad Amin) in accordance with the provisions of Article (289) of the Penal Code No. (111) of 1969, as amended, It has been proven that the defendant committed the crime attributed to him that the forgery occurred in the city of Mosul based on the testimony of the

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accused (Tariq Muhammad Amin) certified by the Right Mosul Investigation Court on 5/1/2020, It is indicated that he phoned the accused (Musaad Nazir Hassan - lives in the city of Mosul and specializes in falsifying official documents) and agreed with him to falsify the identity of the so-called (Azzam) in the name of (Muhammad Ali Salem) and receive the forged identity from him in exchange for an amount of two hundred and seventy-five thousand dinars. Then the accused (Samir Saber) contacted him and asked him to forge two identities through the accused (Mussad) and gave him pictures and information and agreed with him that this would be done in exchange for an amount of three hundred US dollars, and he was arrested in the city of Mosul. However, the forged IDs were brought with the other defendants to the city of Sulaymaniyah for the purpose of using them according to the detail referred to in the statement of the aforementioned defendant, and an annex to the statement of the aforementioned defendant was written on 16/9/2020 by the Bardarash Investigation Court, in which he (the accused) confirmed that the forgery took place in the left city of Mosul. Not in the district of Bardarash, and since Article (53/a) of the Code of Criminal Procedure No. (23) of 1971 amended, stipulated that (determines the jurisdiction of the investigation place where the crime occurred in whole or part of it or any complementary act or any result resulting from it or an act that is part of a compound crime or continuous or sequential or crimes of habit as determined by the place where the victim was found or found where the money for which the crime was committed after transmitted to him by the perpetrator or a person who is aware of it), Therefore, the Bardarash Investigation Court and the Mosul Investigation Court are spatially competent to investigate the crimes of falsifying false identities due to the occurrence of forgery in Mosul, as the jurisdiction

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of the investigation is determined based on the text of the aforementioned article, and since the Mosul Left Investigation Court of the Presidency of the Nineveh Court of Appeal has come a long way in the investigation, Until it reached advanced stages, which requires considering it spatially competent in the investigation, and thus the decision of the Right Mosul Investigation Court on 11/10/2023 containing the submission of the matter to the Federal Court of Cassation to determine the competent court is incorrect and contrary to the provisions of the law, based on the provisions of Articles (93/8th/Alif) From the Constitution of the Republic of Iraq for the year 2005 and (4/8th/Alif) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and Article (30) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulated that(First: If there is a conflict of jurisdiction between the federal judiciary and the judiciary in the regions, the judicial authority that it deems competent or not competent to consider the dispute may request the court to determine the competent judicial authority to consider it. Second: The request to determine the jurisdiction shall be sent to the court by a letter signed by the President of the Court of Appeal, with all prior documents)•which requires taking into account this in the future, and for the foregoing, the Federal Supreme Court decided to consider the Mosul Left Investigation Court affiliated to the Presidency of the Nineveh Court of Appeal as spatially competent to consider the investigative papers of the accused (Tariq Muhammad Amin) in accordance with the provisions of Article (289) of the Penal Code No. (111) of 1969, as amended, and to refer the investigative papers to it• And inform the Presidency of the Nineveh Court of Appeal to notify the Mosul Investigation Court of this and the need to

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apply the provisions of Article (93/8th/Alif) of the Constitution of the Republic of Iraq for the year 2005 and (4/8th/Alif) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and in accordance with Article (53/Dal) of the Code of Criminal Procedure and Article (30) of the Internal Regulations of the Federal Supreme Court No. (1) For the year 2022 correctly applied and taking into account that in the future. The decision has been issued unanimously, final and binding on all authorities based on the provisions of Articles (93/8th/Alif) and (94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4/8th/Alif and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and done in the session dated 27/Jumada Al-Awal/1445/AH corresponding to 12/December/2023 AD

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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