

Republic of Iraq  
Federal Supreme Court  
Ref 101/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 6/8/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali and Khalid Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

Applicant: Chairman of the Media and Communications Commission / in addition to his job.

Subject matter of the request: Interpretation of the text of Article (110/sixth) of the Constitution of the Republic of Iraq of 2005, which stipulates that (the federal authorities shall have the following exclusive competencies: Sixth: Regulation of the policy of broadcasting frequencies and post), and whether the concept of (regulation of frequency policy) contained in this article is limited to drawing up the frequency policy only, or does this concept expand to include (regulating the telecommunications sector and issuing the necessary licenses for that as well)?.

**Brief of the request:**

The Federal Supreme Court received the letter of the Media and Communications Commission / Legal Department No. (5/Q/1/2/6593) on 26/3/2024 requesting the interpretation of the text of Article (110/VI) of the Constitution of the Republic of Iraq of 2005, the conclusion of which lies in the following: Based on the provisions of Article (93/II) of the Constitution of the Republic of Iraq for the year 2005, and the provisions of Article (24) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, we ask your esteemed court to explain what is meant by the text of Article (110/VI) of the Constitution, which

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states (The federal authorities shall have the following exclusive competencies: Sixth: Regulating the policy of broadcasting frequencies and mail), and whether the concept of (regulating frequency policy) contained in this article, it is limited to drawing up the frequency policy only, or does this concept expand to include (regulating the telecommunications sector and issuing the necessary licenses for that as well)? in particular, if we know that the Iraq is obliged to respect the international obligations and standards approved by the International Telecommunication Union in accordance with the provisions of Article (8) of the Iraqi Constitution on this? in addition to the fact that the Prime Minister is directly responsible for the general policy of the state in accordance with Article (78) of the Iraqi Constitution, and is directly responsible for the Chairman of the Commission, and the supervisor of the implementation of the general plans of the authority, and the commitment to apply international standards and obligations imposed on Iraq in the telecommunications sector this is for the reasons detailed in the application for the foregoing, and based on the provisions of Article (93/II) of the Constitution of the Republic of Iraq of 2005, and Article (4/II) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. 25 of 2021, and Article (24) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, and in accordance with Article 19 thereof, the request for interpretation has been submitted. After registering the application with this court No. (101/Federal/2024) and collecting the legal fee for it, the court reviewed what was stated therein, and when the application was put under scrutiny and deliberation, the court issued the following interpretative judgment:

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### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the application was submitted for the purpose of interpreting Article (110/VI). of the Constitution of the Republic of Iraq of 2005, which stipulates that (the federal authorities shall have the following exclusive competencies: Sixth: Regulating the policy of broadcasting frequencies and post), and is the concept of (regulating the frequency policy) contained in this article limited to drawing up the frequency policy only, or does this concept expand to include (regulating the telecommunications sector and issuing the necessary licenses for that as well)? in particular, the Iraq is obliged to respect the international obligations and standards adopted by the International Telecommunication Union in accordance with the provisions of Article (8) of the Constitution, and that the Prime Minister is directly responsible for the general policy of the State in accordance with Article (78) of the Constitution, and is directly responsible for the Chairman of the authority, and the supervisor of the implementation of the general plans of the authority and the commitment to apply international standards and obligations imposed on Iraq in the telecommunications sector the requested text has sparked a dispute in application between the CMC and the Ministry of Communications regarding the request to interpret Article (110/sixth) of the Constitution, which stipulates that (the federal authorities shall have the following exclusive competencies: Sixth: Regulating the policy of broadcasting frequencies and mail), the Federal Supreme Court finds that this court has previously stated in its interpretative decision regarding the interpretation of Article (110/VI) of the Constitution, issued in No. (233/Federal/2023) on 10/10/2023 based on the request submitted by the Minister of Communications (The regulation of the policy of broadcasting frequencies and mail shall be

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the competence of the executive authority as one of the federal authorities and according to the tasks of the ministry in charge of that competence namely the Ministry of Communications), and for the foregoing, the Federal Supreme Court decided to reject the request for interpretation because it had already decided on its merits, the decision was issued by agreement final and binding based on the provisions of Articles( 93 and 94) of the Constitution of the Republic of Iraq of 2005, and Articles (4) and 5/II of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25).for the year 2021 and done in the session dated 1/Safar/1446 AH corresponding to 6/8/2024 AD.

**Judge**  
**Jassim Mohammed Abood**  
**President of the Federal Supreme Court**

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