

Republic of Iraq
Federal Supreme Court
Ref 106/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/7/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid, Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Applicant of Interpretation: Khaled Shwani - Minister of Justice / being in this capacity.

Subject of the request: Statement of opinion on the possibility of including citizens benefiting from the laws on martyrs within the territory with the rights contained in the Federal Martyrs Foundation Law.

Abstract of the request:

The Federal Supreme Court received the letter of the Ministry of Justice - Minister's Office No. (8142) on 27/3/2024 entitled (clarification), which includes the following:

((a group of martyrs' families living outside the region / Kirkuk governorate and the rest of the areas under the administration and authority the Federal Government to the Human Rights Department in our Ministry requesting redress and redress of injustice from them by the Martyrs Foundation, as the Foundation works according to the interpretative decision issued by your court No. (86/Federal/2021) dated 27/7/2021, which stated: (The beneficiaries of the laws on martyrs within the region cannot benefit from the laws on martyrs within the federal government) and with this text, the Martyrs Foundation refuses to include them in the rights contained in its law, like their peers in the rest of the Iraqi governorates, it should be noted that their civil status is

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located within those areas and they have martyrs who fell by fighting the former regime, and they have the right, as Iraqis, to include them in the rights and privileges obtained by other families of Iraqi martyrs it is the duty of State institutions, including the above-mentioned institution, to deal with them on an equal footing with other citizens of the country, based on the provisions of article (14) of the Iraqi Constitution, which affirms the following: (Iraqis are equal before the law without discrimination as to sex, race, nationality, origin or colour or religion, sect, belief, opinion, economic or social situation) and this is what is stipulated in the court's decision (224 and its units 269/Federal/2023) (the need to treat all Iraqis equally wherever they are)). The Court was informed of the above-mentioned request and, after conducting its scrutinies issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the application was submitted for the purpose of inquiring about the extent of the possibility of including citizens benefiting from the laws on martyrs within the region with the rights contained in the law federal martyrs foundation, as the aforementioned institution is working in accordance with the interpretative decision of the Federal Supreme Court No. (86/Federal/2021) on 27/7/2021, which includes: (The beneficiaries of the laws on martyrs within the region they cannot benefit from the laws on martyrs within the federal government), the Federal Supreme Court finds that the request must be answered in form, for lack of jurisdiction, since this court is not an authority for issuing fatwas and expressing opinions, nor is it competent to answer inquiries received from federal authorities and ministries including the applicant as it falls outside the scope of its constitutional competences stipulated

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in Article (93) of the Constitution, article (4) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and its Internal Regulations No. (1) of 2022, which requires to reject the request regarding the subject on which the opinion is requested, and on the basis of the above, the Federal Supreme Court decided to rule as follows:

Reject to the request of (Khaled Shwani - Minister of Justice / being in this capacity) containing a statement of opinion regarding the possibility of including citizens benefiting from the laws on martyrs within the region with the rights contained in the Federal Martyrs Foundation Law, for lack of jurisdiction.

The decision has been issued unanimously, final and binding for all authorities in accordance with the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005 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 it has been edited at the session dated 25/Dhu al-Hijjah/1445 A.H. Corresponding to 2/7/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

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