

Republic of Iraq  
Federal Supreme Court  
Ref 134/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 2/6/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Husain and Jassim Jazaa Jaffer who are authorized in the name of the people to judge and they made the following decision:

The Applicant for determining jurisdiction: Karrada Investigation Court affiliated to the Presidency of the Baghdad Court of Appeal / Rusafa according to the decision of the Federal Court of Cassation No. (8256 / Criminal Commission / 2024 sequentially / 3581 on 30/4/2024).

Subject matter of the request: Determination of the conflict of jurisdiction between the Karrada Investigation Court affiliated to the Presidency of the Court Baghdad/Rusafa Appeal and between the Dohuk Investigation Court of the Presidency of the Duhok Region Court of Appeal Based on Article (93/8<sup>th</sup>/Alif) of the Constitution.

### **The Request:**

The Federal Court of Cassation referred to this court according to the letter of the Penal Authority Section No. (8256/Criminal Tribunal/2024) on 9/5/2024) and its decision No. (8256/Penal Commission/2024 Sequence/3581 on 30/4/2024) the investigative papers of the complainant (Onder Hossam Aldin Noor Aldin ) and the accused (Selim Abdullah selim) in accordance with the provisions of article (289) of the Penal Code No. (111) of 1969, as amended, due to a negative conflict in the spatial jurisdiction between the Karrada Investigation Court of the Baghdad / Rusafa Court of Appeal, and the Duhok Investigation Court affiliated to the Presidency of the Duhok Region Court of Appeal, after

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reviewing the investigative papers, it was found that the facts of the case are summarized as follows: on 23/5/2023, the complainant's statements were recorded (Onder Hossam Aldin Noor Aldin) before the Dohuk Investigation Court he stated: years ago, there was a commercial transaction between him and the defendant (Selim Abdullah selim), who is a resident of the city of Duhok, and because of those commercial dealings, he became liable to the defendant a sum of money of (90,000) ninety thousand US dollars, and on 30/1/2023, under a fundamental contract concluded between the complainant and the accused, where the defendant gave the apartment belonging to him and numbered (2 / floor 23 / building B) within the project (Alikanes Towers) to the complainant in exchange for part of the amount which he has that he will continues to deal commercially with him, and after several days the complainant visited the Kurdistan Region and went to the company executing the aforementioned project to find out the fate of the apartment and whether its monthly installments were paid or not, and he learned then that the apartment was no longer registered in his name, he found out that the defendant transferred the ownership of the apartment and registered it in the name of the so-called (Mohamed Kanaan Abdul Ghafour) according to a forged power of attorney No. (192 on 9/11/2022) issued by the Karrada Notary Department in Baghdad, and he must request the complaint and compensation)) on 23/7/2023, the judge of the Dohuk Investigation Court decided to refer the investigative papers to the Karkh Investigation Court in Baghdad to complete the investigation according to the affiliation and jurisdiction because the numbered power of attorney (192 in record 180 on 9/11/2022) was issued by the Karkh Notary Department, and on 25/9/2023, the judge of the third Karkh Investigation Court decided to refer the investigative papers to the Karrada Investigation Court to complete the investigation according to

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the spatial jurisdiction based on article (53) of the Code of Criminal Procedure No. (23) of 1971, as amended, because the power of attorney the subject of the complaint was issued by the Karrada Notary Department, and on 19/2/2024, the judge of the Karrada Investigation Court decided to present the investigative papers to the Federal Court of Cassation in order to determine the competent court for the investigation spatially, as the forged power of attorney was used in the governorate of Dohuk, so the latter decided to refer it to the Federal Supreme Court according to jurisdiction in accordance with the provisions of article (4/8<sup>th</sup>/Alif) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, and after registering the application with this court and scrutinies the investigative papers and decisions issued therein. The Federal Supreme Court issued the following decision:

### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that on 23/7/2023, the judge of the Duhok Investigative Court decided to refer the investigative papers of the complainant (Onder Hossam Aldin Noor Aldin Onder) and the accused (Selim Abdullah selim) in accordance with the provisions of Article (289). of the Penal Code No. (111) of 1969, as amended, to the Karkh Investigation Court in Baghdad to complete its investigation according to affiliation and jurisdiction because the numbered power of attorney (192 in record 180 on 9/11/2022) is issued by the Karkh Notary Department, on 25/9/2023, the judge of the Third Karkh Investigation Court decided to refer the investigative papers to the Karrada Investigation Court to complete the investigation according to spatial jurisdiction based on article (53) of the Code of Criminal Procedure No. (23) of 1971, as amended, since the

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power of attorney subject of the complaint was issued by the Karrada Notary Department, and on 19/2/2024, the judge of the Karrada Investigation Court decided to present the investigative papers to the Federal Court of Cassation in order to determine the competent court to investigate spatially, as the forged power of attorney was used in Dohuk Governorate, so the latter decided to refer it to the Federal Supreme Court according to jurisdiction, whereas article (53/Alif) of the Code of Criminal Procedure No. (23) of 1971, as amended, stipulates that (the jurisdiction of the investigation shall be determined by the place where the crime was committed in whole or in part, or any act complementary to it, or any result resulting therefrom, or an act that is part of it), of a composite, continuous or sequential crime or a crime of habit, as determined by the place where the victim was found or where the money in respect of which the crime was committed was found after it was transferred to him by the perpetrator or a person who knew about it), and since the crime attributed to the accused on the assumption of its validity occurred in the governorate of Dohuk and that the forged power of attorney was used in the aforementioned governorate, the complainant also lived in it, however, the forged power of attorney is attributed to the Karrada notary, so both the Karrada and Duhok investigation courts are spatially competent to investigate, as the jurisdiction of the investigation is determined based on the text of the aforementioned article, and since the Duhok Investigation Court initiated the investigation procedures and recorded the complainant's statements first and took a set of measures until the investigation reached advanced stages, it had to complete the investigation, and therefore the Duhok Investigation Court of the Presidency of the Duhok Region Court of Appeal is spatially competent to conduct the investigation with papers thus, the decision of the Duhok Investigation Court on 23/7/2023 – (which includes referring the

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investigative papers to the Karkh Investigation Court in Baghdad to complete the investigation according to the affiliation and jurisdiction because the power of attorney numbered 192 in register 180 on 9/11/2022 issued by the Karkh Notary Department) – is incorrect and contrary to the provisions of the law, The same applies to the decision of the Karrada Investigation Court on 19/2/2024 - (which includes the presentation of investigative papers to the Federal Court of Cassation to determine the court spatially competent to conduct the investigation) - and based on the provisions of articles (93/8<sup>th</sup>/Alif and Beh) of the Constitution of the Republic of Iraq of 2005, which stipulated that the Federal Supreme Court shall have the following competences: (8<sup>th</sup> –Alif- adjudicating the conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates not organized in a region, (Beh- adjudicating conflicts of jurisdiction among the judicial authorities of the regions, or governorates not organized in a region), and (4/8<sup>th</sup>/Alif and Beh) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, which stipulates that the Federal Supreme Court shall have the following competencies: (8<sup>th</sup> - Alif- Adjudicating the conflict of jurisdiction between the federal judiciary and the judicial bodies of regions and governorates that are not organized in a region, Beh- adjudicating the conflict of jurisdiction between the judicial authorities of the regions, or governorates that are not organized in a region), article (30) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette issue (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 deems it competent or not competent to hear the dispute may request the court to determine the judicial authority competent to hear it. Second: The request to determine

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the jurisdiction shall be sent to the Court by a letter signed by the President of the Court of Appeal, with all the priorities), so the Federal Supreme Court is constitutionally competent to adjudicate the conflict of jurisdiction between the federal judiciary and the judicial authorities of the regions and governorates that are not organized in a region, as well as to adjudicate the conflict of jurisdiction between the judicial authorities of the regions or governorates not organized in a region, therefore, the Federal Supreme Court decided to consider the Dohuk Investigation Court, which is affiliated to the Presidency of the Duhok Region Court of Appeal, as spatially competent to consider the investigative papers of the complainant (Onder Hossam Aldin Noor Aldin Onder) the accused (Selim Abdullah Selim) in accordance with the provisions of article (289) of the Penal Code No. (111) of 1969, as amended, referring the investigative papers to it and considering its decision issued on 23/7/2023 as incorrect and contrary to the provisions of the law, as well as the decision of the Karrada Investigation Court on 19/2/2024 to present the investigative papers to the Federal Court of Cassation to determine the competent court spatially to conduct the investigation, and to inform the Presidency of the Baghdad / Rusafa Court of Appeal of this in order to notify the Karrada Investigation Court of the need to take into account the validity of the application of the provisions of Article (30) of the aforementioned rules of procedure in the future, and to inform the Presidency of the Duhok Region Court of Appeal to notify the Duhok Investigation Court of this. The decision has been issued unanimously, final and binding to all authorities in accordance with the provisions of articles (93/8<sup>th</sup>/Alif) and (94) of the Constitution of the Republic of Iraq of 2005, and articles (4/8<sup>th</sup>/Alif and 5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) of 2005 as amended

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by Law No. (25) of 2021 and it has been made clear in the session dated 23/ Dhu al-Qa'dah /1445 A.H. corresponding to 2/6/2024 AD.

**Judge**  
**Jasem Mohammad Abboud**  
**President of the Federal Supreme Court**

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