

Republic of Iraq  
Federal Supreme Court  
Ref 145/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9/6/2024 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, Khaled Taha Ahmed, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Applicant for Determining Jurisdiction: Khabat Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal in accordance with the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq.

The Subject matter of the request: Adjudication of the conflict of jurisdiction between the Mosul Left Investigation Court of the Nineveh Court of Appeal and the Khabat Investigation Court of the Presidency of the Erbil Region Court of Appeal based on the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq of 2005.

### **The Request:**

The Federal Supreme Court received the letter of the representation of the regional government in Baghdad No. (Mim.Ra. 17991 on 13/5/2024) and its annexes, the letter of the Presidency of the Erbil Region Court of Appeal No. (2/8/2695 on 28/4/2024), the letter of the Khabat Investigation Court No. (679 on 18/4/2024) and the investigative papers of the accused (Mushir Abdullah Selim) in accordance with the provisions of Article (461) of the Penal Code No. (111) of 1969, as amended, due to a negative conflict of spatial jurisdiction between the Mosul Left Investigation Court affiliated to the Presidency of the Nineveh Court of Appeal, and the Khabat Investigation Court affiliated

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to to the Presidency of the Erbil Region Court of Appeal, and after reviewing the investigative papers, it was found that the facts of the case are summarized as follows: on 15/8/2021, the statements of the defendant (Mushir Abdullah Selim) were recorded before the Mosul Left Investigation Court he stated that in 2008 he purchased a construction mechanism of the type (Kawski shuffle) size (70 beh) chassis number (2737) from the so-called (Hazem Mustafa Mohamed) according to a special franchise from its legitimate imported owner (Sajid Abdul Rahman Hussain), and the mechanism was introduced through the border crossing in (Trebil), and due to the security conditions that the city of Mosul has gone through since 2008, the defendant was unable to register the vehicle in the Nineveh Traffic Department because he was threatened more than once because of his work in the field of contracting, and on 11/2/2024, the aforementioned court recorded an annex to the defendant's statement and stated in it: it was agreed to sell and buy the vehicle, receive it and deliver its price in the area of (Kalak / Khabat) of Erbil Governorate and also the invitee (Hazem Mustafa Mohamed) to authorize the accused under a general franchise issued by the Department of Notary Public Khabat)), on 11/2/2024, the judge of the Mosul Left Investigation Court decided to refer the investigative papers to the Khabat Investigation Court to complete the investigation according to the territorial jurisdiction pursuant to the provisions of Article (53) of the Code of Criminal Procedure, because the incident of buying and delivering the vehicle subject of the lawsuit occurred in the district of (Kalak / Khabat district), and on 25/3/2024, the judge of the Khabat Investigation Court decided (rejecting the referral) and presenting the investigative papers to the Federal Supreme Court - based on what was stated in the officer's

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review the investigator, which included (that the mechanism was introduced by the Directorate of Trebil Customs according to their letter No. (507041 on 30/12/2004) and that the accused purchased the vehicle in Khabat / Erbil without providing any evidence to that or concluding a contract) - According to the jurisdiction, based on the provisions of Article (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq of 2005 and 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, in order to determine the competent court. After registering the application with this court and scrutinies the investigative papers, the Federal Supreme Court issued the following decision:

**The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that on 15/8/2021, the Left Mosul Investigation Court recorded the statement of the defendant (Mushir Abdullah Selim) in accordance with the provisions of Article (461) of the Penal Code No. (111) of 1969, as amended, and on 11/2/2024, an annex was recorded to his statement and the judge of the aforementioned court decided to refer the investigative papers to the Khabat Investigation Court to complete the investigation according to the territorial jurisdiction pursuant to the provisions of Article (53) of the Code of Criminal Procedure, since the fact of purchase and delivery of the vehicle subject of the lawsuit occurred in the district of (Kalak / Khabat district), on 25/3/2024, the judge of the Khabat Investigation Court decided (to reject the referral) and to present the investigative papers to the Federal Supreme Court, to determine the competent investigation court spatially because the mechanism was introduced by the Trebil Customs Directorate according to the appendix to his statement, the defendant bought it in the district of (Kalak /

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Khabat district) in Erbil without submitting a sale and purchase contract or any evidence to support it whereas Article 53 (a) of the Code of Criminal Procedure No. 23 of 1971, as amended, it stipulates that (the jurisdiction of the investigation shall be determined by the place where the crime occurred in whole or in part or any act complementary to it or any consequence or act that is part of a composite, continuous or sequential crime or a crime of habit it also determines 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 defendant on the assumption of the validity of its proof occurred in the district of (Kalak / Khabat district) of Erbil Governorate under the incident of sale and purchase in which it took place based on the appendix of the accused's statement and his confession recorded before the Mosul Left Investigation Court, but the aforementioned mechanism was introduced through the Trebil port it was used in the province of Mosul, and was seized in the possession of the accused and is not registered in the competent traffic departments, therefore, both the Mosul and Khabat courts are spatially competent to investigate, based on the text of the aforementioned article, since the Left Mosul Investigation Court initiated the investigation procedures and recorded the statements of witnesses and the accused first and took a set of measures until the investigation reached advanced stages, it had to complete the investigation, so the Left Mosul Investigation Court of the Presidency of the Nineveh Court of Appeal is spatially competent to conduct an investigation with the investigative papers of the accused (Mushir Abdullah Selim) in accordance with the provisions of Article (461) of the Penal Code No. (111) of 1969, as amended, thus, the decision of the Mosul Left Investigation Court on 11/2/2024 (referring

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the investigative papers to the Khabat Investigation Court to complete the investigation according to jurisdiction), is incorrect and contrary to the provisions of the law, 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 jurisdiction: (8<sup>th</sup>- Alif- Adjudicating the conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates that are not organized in a region, b- Adjudicating the conflict of jurisdiction between the judicial authorities of the regions or governorates that are 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 competences: (Eighth- Alif- Adjudicating the conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates that are not organized in a region, Beh- adjudicating the conflict of jurisdiction among the judicial authorities of the regions, or governorates that are not organized in a region), 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 stated 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 the jurisdiction is 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

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adjudicate the conflict of jurisdiction between the judicial authorities of the regions or governorates that are not organized in a region, so the Federal Supreme Court decided to consider the Mosul Left Investigation Court affiliated to the Presidency of the Nineveh Court of Appeal spatially competent Considering the investigative papers of the accused (Mushir Abdullah Selim) in accordance with the provisions of Article (461) of the Penal Code No. (111) for the year 1969 as amended, And refer the investigative papers to it and consider its decision issued on 11/2/2024 is incorrect and contrary to the provisions of the law, and informing the Presidency of the Erbil Region Court of Appeal to notify the Khabat Investigation Court of this. The decision has been issued unanimously, final and binding on 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 by Law No. (25) of 2021 and it has been made clear in the session dated 2/Dhu al-Hijjah/1445 A.H. Corresponding to 9/6/2024 AD.

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

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