

Republic of Iraq
Federal Supreme Court
Ref 165/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/7/2024 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 for Determining Jurisdiction: Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal based on the provisions of Article (93/8th/Alif) of the Constitution of the Republic of Iraq according to the decision of the Presidency of the Kurdistan Region Court of Cassation / Expanded authority No. (194/Expanded authority/2023) on 15/11/2023.

The Subject matter of the request: Adjudication of the conflict of jurisdiction between the Karrada Investigation Court of the Baghdad / Rusafa Court of Appeal and the Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal based on the provisions of Article (93/8th/Alif) of the Constitution of the Republic of Iraq of 2005.

The Request:

The Federal Supreme Court received the letter of the Presidency of the Baghdad / Rusafa Court of Appeal No. (Ain/3455) on 3/6/2024 and its accompanying letter of the Presidency of the Erbil Region Court of Appeal / Department of Relations and Legal Affairs No. (2/8/3624) on 19/5/2024 and the letter of the Erbil Investigation Court No. (14248) on 13/12/2023 and the investigative papers of the complainant (public right) and the accused (Fattah Mohammed Abdullah) in accordance with

Zainab

Republic of Iraq
Federal Supreme Court
Ref 165/ federal/2024



Kurdish text

the provisions of Article (292/298) of the Penal Code No. (111) of 1969, as amended, due to the negative conflict in the territorial jurisdiction between the Karrada Investigation Court of the Presidency of the Baghdad / Rusafa Court of Appeal and the Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal, and after registering the application with this court and scrutinized 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 3/3/2021, the Karrada Investigation Court recorded the statements of the legal representative of the Directorate of Passports Affairs and the complaint request against the defendant (Fattah Mohamed Abdullah) for submitting on 8/1/2020 an application for a passport (for the first time) in front of the Iraqi embassy in (Stockholm), and it was found that his civil status ID numbered (00363232) issued on 14/3/2016 attached to the application (forged) and according to what was stated in the letter of the (Diana/Erbil) Status Department No. (485) on 12/7/2020, and after a series of investigative procedures of the Karrada Investigation Court decided to issue an arrest warrant against the accused in accordance with the provisions of Article (292/298) of the Penal Code No. (111) of 1969, as amended on 4/5/2023, the judge of the Karrada Investigation Court decided to refer the investigative papers to the Erbil Investigation Court to complete the investigation according to the territorial jurisdiction based on the provisions of Article (53) of the Code of Criminal Procedure, since the forged identity was issued by the conditions of (Diana / Erbil), and when the court was informed of the decision of the presidency of the Kurdistan Region Court of

Zainab

Republic of Iraq
Federal Supreme Court
Ref 165/ federal/2024



Kurdish text

Cassation / the expanded authority with the number (194 / The Expanded authority / 2024) on 5/11/2023, it was noted that the Erbil Investigation Court decided on 20/8/2023 (rejecting the referral) and presenting the investigative papers to the presidency of the Regional Court of Cassation Kurdistan for the purpose of appointing the competent court of inquiry in accordance with the provisions of Article 53/Dal of the Code of Criminal Procedure, the latter court issued its aforementioned decision, which included returning the investigative papers to the Erbil Investigation Court for the purpose of presenting them to the Federal Supreme Court according to jurisdiction, because the jurisdiction to hear the dispute between the two aforementioned courts is held to the Federal Supreme Court based on the provisions of Article (93/8th/Alif) of the Constitution of the Republic of Iraq of 2005, and on the basis of the above, the Erbil Investigation Court decided to refer the investigative papers to the Federal Supreme Court in order to determine the competent court, and since Article (53/Alif) of the Assets Law Criminal Trials No. 23 of 1971, as amended, it stipulates that (the jurisdiction of the investigation shall be determined by the place where all or part of the crime occurred, any complementary act thereof, any consequence thereof, or an act that is part of a composite, continuous or sequential crime, or a crime of habit, as well as 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 aware of it), and since the crime attributed to the accused is assumed to be true therefore, the Erbil Investigation Court of the Presidency of the Erbil Region Court of Appeal is spatially competent to conduct an investigation of the investigative papers of the accused (Fattah Mohamed Abdullah) in accordance with the provisions of Article (292/298) of the Penal Code No. (111) of 1969, as amended,

Zainab

Republic of Iraq
Federal Supreme Court
Ref 165/ federal/2024



Kurdish text

thus, the decision of the Erbil Investigation Court on 20/8/2023, containing (rejection of referral) and presenting investigative papers to the presidency of the Regional Court of Cassation / the expanded authority for the purpose of appointing the competent court for investigation is incorrect and contrary to the provisions of the law, and based on the provisions of Articles (93 /8th/ Alif and Beh) of the Constitution of the Republic of Iraq of 2005, which stipulates that the Federal Supreme Court shall have the following competencies: (8th-Alif- Adjudication of conflict of jurisdiction between the federal judiciary and the judicial authorities of regions and governorates not organized in a region, Beh- Adjudication of conflict of jurisdiction among judicial authorities of regions or governorates not organized in a region), and (4/8th/Alif and Beh) of the Federal Supreme Court Law No. 30 of 2005, as amended by Law No. 25. of 2021, which stipulated that the Federal Supreme Court shall have the following competencies: (8th- 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 between the judicial authorities of the regions or governorates that are not organized in a region), and Article (30) of the Internal Regulations 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 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 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

Zainab

Republic of Iraq
Federal Supreme Court
Ref 165/ federal/2024



Kurdish text

jurisdiction between the federal judiciary and the judicial authorities of regions and governorates that are not organized in a region, as well as to adjudicate the conflict of jurisdiction between the judicial authorities of regions or governorates that are not organized in a region, so the Federal Supreme Court decided to consider the Erbil Investigation Court affiliated to the Presidency of the Erbil Region Court of Appeal spatially competent Examining the investigative papers of the accused (Fattah Mohamed Abdullah) in accordance with the provisions of Article (292/298) of the Penal Code No. (111) of 1969, as amended, referring the investigative papers to it and considering its decision issued on 20/8/2023, containing (rejection of referral) and presenting the investigative papers to the presidency of the Regional Court of Cassation / the expanded authority for the purpose of determining the competent court for investigation, is incorrect and contrary to the provisions of the law, and the need to observe the application of the provisions of Article (30) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 in the correct application and taking into account this in the future, and inform the Presidency of the Baghdad / Rusafa Court of Appeal of this to notify the Karrada Investigation Court of this. The decision has been issued unanimously, final and binding on all authorities in accordance with the provisions of articles (93/8th/Alif) and (94) of the Constitution of the Republic of Iraq of 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 it has been edited in the session dated 26/Dhu al-Hijjah/1446 A.H. Corresponding to 3/7/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

Zainab