

Republic of Iraq  
Federal Supreme Court  
Ref 73/ federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25/3/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Ayoub Abbas Salih, Dyar Mohammed Ali, and Munther Ibrahim Hussain, who are authorized in the name of the people to judge and they made the following decision:

Applicant for Jurisdiction: Chamchamal Investigation Court affiliated to the Presidency of the Sulaymaniyah Region Court of Appeal.

Subject matter of the request: Adjudication of the conflict of jurisdiction between the Daquq Investigation Court of the Kirkuk Presidency of the Kirkuk Court of Appeal and the Chamchamal Investigation Court of the Presidency of the Sulaymana Region Court of Appeal based on Article (93/8<sup>th</sup>/Alif) of the Constitution.

**The Request:**

The Federal Supreme Court received the letter of the representation of the regional government in Baghdad / General Directorate of Administration and Finance Affairs No. (Mim.Ra 7504 on 25/2/2024) and its attachments to the letter of the Presidency of the Sulaymaniyah Region Court of Appeal / Directorate of Administration No.(1710 on 15/2/2024) and the letter of the ChamChmal Investigation Court No.(345 on 21/1/2024) and the investigative papers of the defendant (Reem Ahmed Muhammad Khalil) according to the provisions of Article (240) of the Iraqi Penal Code, for a negative conflict in the territorial

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jurisdiction between the Daquq Investigation Court to the Presidency of the Kirkuk Court of Appeal and the Chamchamal Investigation Court of the Sulaymaniyah Region Court of Appeal, after reviewing the investigative papers, it was found that the facts of the case are summarized as follows:

On 10/9/2023, the defendant's statements were recorded(Reem Ahmed Mohammed/Syrian national) before the Daquq Investigative Court and stated: About a year ago from the date of writing this statement,she was living in Anbar province and was informed on 9/9/2023,of the need to leave the province by the security authorities, and then took a car to Sulaymaniyah province, Upon her arrival to the Al- Raml checkpoint she was arrested by the Iraqi army and handed over to the Al-Rashad police station she stated that her papers are original and have been verified in all controls in the Anbar, Samarra and Tikrit police command,and that its entry into Iraqi territory is duly. On 12/9/2023, the judge of the Daquq Investigation Court decided to refer the investigative papers to the Chamchmal Investigation Court to complete the investigation according to the territorial jurisdiction pursuant to the provisions of Article (53/Jim) of the Code of Criminal Procedure, the accused is a Syrian national, and possesses a certificate granting the status of an asylum seeker issued by the United Nations High Commissioner for Refugees / Sulaymaniyah, and because she left the province of Sulaymaniyah,she violater the procedures of residence in the province of Sulaymaniyah,on 7/12/2023, the judge of the Chamchmal Investigation Court decided(to reject the referral) and to submit the investigative papers to the Federal Supreme Court to resolve the dispute between the Daquq Investigation Court and the Chamchmal Investigation Court and determine the competent court to conduct the investigation based on the provisions of Article (93/8<sup>th</sup>/Alif) of the

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Constitution of the Republic of Iraq of 2005, considering that it is not spatially competent to consider investigative papers, because the asylum seeker's document is not a substitute for obtaining a work permit or residence permit in Iraq, and that the Daquq Investigation Court has come a long way in the investigative procedures and that the investigation is in its final stages, after registering the application with this court and making the scrutinies, it issued the following decision:

**The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that on 12/9/2023, the judge of the Daquok Investigative Court decided to refer the investigative papers of the defendant (Reem Ahmed Muhammad Khalil - Syrian nationality) to the Chamchamal Investigation Court to complete the investigation according to the spatial jurisdiction pursuant to the provisions of Article (53/Jim) fundamental, since the defendant is a Syrian national, She has a certificate of granting the status of an asylum seeker issued by the United Nations High Commissioner for Refugees / Sulaymaniyah, and for leaving Sulaymaniyah province, she violated the procedures for residence there, On 7/12/2023, the judge of the Chamchamal Investigation Court decided (to reject the referral) due to the lack of jurisdiction of the court to conduct the investigation; the document of the asylum seeker is not an alternative to obtaining a work permit or residence in Iraq, and the Daquq Investigation Court has come a long way in the investigative procedures until the investigation reached advanced stages - and the presentation of the investigative papers to the Federal Supreme Court for the purpose of determining the competent court spatially in completing the investigation due to a negative conflict of jurisdiction based on the provisions of Article (93/8<sup>th</sup>/Alif)

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of the Constitution of the Republic of Iraq for the year 2005, and since 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 complementary act thereof, or any consequence resulting therefrom, or an act that is part of a composite, continuous or sequential crime, or a crime of habit, as determined by the place where the victim was found, or 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), since the crime attributed to the defendant on the assumption of the validity of her proof took place in the province of sulaymaniyah because the accused left the aforementioned province and thus violated the residency procedures, therefore, and in application of the provisions of Article (53/Alif) of the Code of Criminal Procedure, the Chamchamal Investigation Court shall be spatially competent to conduct the investigation, based on the text of the aforementioned article,and in accordance with the provisions of Articles (93/8<sup>th</sup>/Alif) of the Constitution of the Republic of Iraq of 2005, and (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 Article (30) from the Internal Regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulates 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 competent judicial authority 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

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the priorities), therefore, the Federal Supreme Court decided to consider the Chamchamal Investigation Court of the Presidency of the Sulaymaniyah Region Court of Appeal as having jurisdiction to consider the investigative papers of the defendant (Reem Ahmed Muhammad Khalil – Syrian nationality) in accordance with the provisions of Article (240) of the Penal Code No.(111) of 1969, as amended, and the referral of investigative papers to it and informing the Presidency of the Kirkuk Court of Appeal to notify the Daquq Investigation Court thereof. 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. The decision has been made clear 14/Ramadan/1445 A.H. corresponding to 25/3/2024 A.D.

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

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IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

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