

Republic of Iraq
Federal Supreme Court
Ref. 80 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/5/2023 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, Ayoob Abbas Salih, Abdul Rahman Suleiman Ali, and Dyar Mohammed Ali, who are authorized in the name of the people to judge and they made the following decision:

The Applicant: Suzan Mansoor Karam – first deputy of the parliamentary investment committee.

The Subject of the Request: to interpret and state the legal opinion about the interference of the article (6/Alif) of the Martyrs' Foundation law No. (3) for 2006 which was amended with the article (140) of the Republic of Iraq Constitution for 2005.

The Abstract of the Request

This court received the request submitted by the representative Suzanne Mansour Karam, according to its office letter No. (175) on 3/4/2023, and the legal fee was collected on 19/4/2023 and registered in the number (80/Federal/2023) based on the provisions of Article (21/1st) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, according to which the claimant: ((Statement of the overlap of the First Amendment Law to the Martyrs Foundation Law No. (3) of 2006, as amended in Article (6/Alif) (Families of martyrs from the hometown are excluded) when distributing residential lands and intersecting With Article (140) of the Iraqi Constitution of 2005

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regarding the disputed areas in (Kirkuk Governorate, part of Diyala Governorate, Mosul and Salah al-Din), this due to the existence of intentions to distribute residential lands within these areas to the segment of martyrs and wounded from outside these areas, and this is considered a demographic change for these areas and contrary to Article (140) of the Iraqi Constitution. The application was subject to scrutiny and deliberation by this court which issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the application was submitted to interpret and state the legal opinion regarding the overlap of Article (6/a) of the Martyrs Foundation Law No. (3) of 2006, as amended, with Article (140) of the Constitution of the Republic of Iraq of 2005, and the Federal Supreme Court finds that the application must be rejected as a form of lack of jurisdiction, as the powers and competencies of this court are exclusively stipulated in Articles (52 and 93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the Court Law. Federal Supreme Decree No. (30) of 2005 as amended by Law No. (25) of 2021. And some other special laws and none of those competencies and powers give the court jurisdiction to interpret the provisions of laws, except on the occasion of challenging their unconstitutionality, as for requests to interpret the provisions of the articles of the Constitution, these requests must be submitted to the Federal Supreme Court by the bodies authorized by the Internal Regulations of the Federal Supreme Court No. (1) of 2022, based on

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the provisions of Article (24) thereof and following Article (19) thereof, and that the applicant is not among those bodies, and the Federal Supreme Court also does not have jurisdiction or authority to answer an inquiry received from one of the official authorities, one of the authorities in the country, or one of the deputies in The House of Representatives to express an opinion, as this court is not a body for issuing fatwas, and the statement of opinion, especially since the subject matter inquired about, is valid to be challenged by a constitutional claim before this court, and based on that it is not permissible to express an opinion on it, and because this court does not have jurisdiction to decide on what is stated in the request and to answer the inquiries contained therein, in view of the above, the Federal Supreme Court decided to reject the request for inquiry submitted by Suzanne Mansour Karam, First Deputy Chairman of the Parliamentary Investment Committee, on the grounds of lack of jurisdiction. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 17/Shawwal/1444 Hijri coinciding with 8/May/2023 AD.

Judge

Jassim Mohammed Abbood

President of the Federal Supreme Court

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