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Islamic Emirate of Afghanistan
Supreme Court
General Directorate of Secretariat
Correspondence Department
Circular Section

Circular No: 18

Date: 6 September 2022 (1444/2/9)

To: Officials the Directorates of Cassations, Diwans, Appeal and Primary Courts of the Islamic Emirate of Afghanistan

May peace, mercy, and blessings of Allah be upon you!

The Supreme Court High Council Secretariat presented its proposal to the High Council of the Supreme Court on 8 March 2022 (1443/8/5) as follows:

Some courts have asked about the first part of the circular No. (1) dated 2 January 2022 (1443/5/29): (the issues of the courts where there is no Commercial Court belonging to the civil court) that whether this part of the circular refers only to the issues related to the center of the province or includes the relevant issues of the districts as well?

In Summary, does the authority to the Sharia-based settlement of commercial issues in the jurisdiction of the relevant districts belong to the district courts or the central urban court?

The Secretariat of the Supreme Court High Council responded as follows:

Given that divisions (divans) are established only within appellate and central provincial courts and are absent elsewhere, should a commercial court be nonexistent in any appellate or central provincial jurisdiction, the commercial issues are then relegated to the civil court.

This implies that district courts lack divisions, and it is within the jurisdiction of the primary district courts to adjudicate other legal and criminal matters presented therein as follows:

All legal issues are resolved in the primary court of the defendant's place of residence. Additionally, according to Article (11) of the Administrative Law, other criminal cases are resolved in the primary court where the crime occurred.

Of course, some issues are excluded from the above verdict; for example, a defendant is a military person, the issue has been changed, or both parties have referred to a court to their satisfaction, etc.

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Consequently, when a plaintiff approaches the primary district court within the defendant's place of residence regarding commercial matters, the aforementioned court is authorized to deliver a resolution.

The High Council of the Supreme Court provided the following direction regarding the answer of the Supreme Court High Council Secretariat to the inquiry mentioned above based on decision No. (39) dated 8 March, 2022 (1443/8/5):

“The response to the query is accurate. The Supreme Court High Council Secretariat is directed to convey this to the Directorates of Cassation, Divisions, Appellate, and Primary Courts.”

Therefore, the answer to the above inquiry that was approved by the High Council of the Supreme Court based on the decision mentioned above has been relayed to all relevant Directorates of Cassations, Divisions, Appellate, and Primary Courts so that the legal and Sharia proceedings will be made in accordance with the aforementioned direction.

Respectfully,

Mufti Abdul Rasheed Saeed
General Director of the Secretariat
The Supreme Court