

Republic of Iraq
Federal Supreme Court
Ref. 17/ federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 24/12/2023 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, and Dyar Mohammed Ali, who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Mohammed Yousef Mahdi Al-Saadi.

Who Requested to Issue the State Order Against: 1- Speaker of the ICR/ being in this capacity.

2- President of the Republic/ being in this capacity.

First: Abstract of the Request

The applicant for the issuance of the state order submitted to this court his list dated 12/7/2023, for which the legal fee was collected on 12/11/2023 and registered under the number (17/Federal/State Order/2023) to request the issuance of an urgent state order that includes ((stopping the implementation of all... From Council of Representatives Resolution No. (50) of 2023 taken in its session held on 9/12/2023, Parliamentary Order No. (189) on 7/13/2023, and Parliamentary Orders No. (184) and (185) on 10/6/2021. And Republican Decree No. (88) of 2023 and the decision of the Presidency of the Council of Representatives dated 11/20/2023, until the lawsuit filed by him before

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this court is resolved, No. (316/Federal/2023), according to which the ruling on the invalidity of (parliamentary decisions and orders and the Republican Decree) is requested) mentioned above for the reasons stated therein, the summary of which lies in the following: (Due to the lack of the conditions required in Articles (2) and (4) of the Law Regulating the Work of Consultants No. (3) of 2022 in several consultants who manage specialized consultant offices that were approved under Clause (First) of the order. Parliamentary Decree No. (189) dated 7/13/2023 and Council of Representatives Resolution No. (50) of 2023, and their appointment according to Republican Decree No. (88) of 2023 - the subject of the appeal - and based on the process of selecting most of the names of the advisors who were presented to the vote for partisan and quota considerations apart from considerations of competence, experience, and merit, Because the provisions of Clause (First) of Article (1) of Law Regulating the Work of Advisors No. (3) of 2022 does not apply to advisors in non-specialized offices who are appointed to the Iraqi Council of Representatives with the rank of (Special Higher - A) in accordance with the text of Clause (Second) of Article (2).) And Clause (Third) of Article (50) of the Council of Representatives and its Formations Law No. (13) of 2018, and Clause (Third) of Legislative Order No. (12) of 2005 - the powers of the President of the Interim National Council, its Chief of Staff, and his advisors, including the advisors whose jobs have been abolished. - Including his job (i.e. the job of the applicant) as a legal advisor in the office of the First Deputy Speaker of the Council of Representatives - and their specialized offices in accordance with Clause (Second) of Parliamentary Order No. (189) dated 7/13/2023 and Clause (Fourth) of Council of Representatives Resolution No. (50) for the year 2023, due to the absence of a text in the Law Regulating the Work of Advisors No. (3) of 2022 that requires

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the abolition of jobs, titles, and job grades for advisors, reassigning them, or demoting their job grades, or granting the President of the Council and his two deputies absolute authority to make the appropriate decision regarding their appointment to whatever functional grades they deem appropriate, because all of this departs from the powers of the Council of Representatives specified in Article (61) of the Constitution, and because the Parliamentary Orders No. (184) and (185) dated 6/1/2021 issuing them violate the rules of jurisdiction, a violation that reduces them to the point of nonexistence, and because both orders Representatives No. (184) and (185) dated 10/6/2021, Republican Decree No. (88) of 2023, and the decision of the Presidency of the Council of Representatives dated 11/20/2023, harmed his rights and led to him being deprived of the position of legal advisor to the Council, and he had previously The State Council issued a letter stating that it is not possible to implement the Law Regulating the Work of Consultants No. (3) of 2022 without implementing legislative overlap due to the inconsistency, contradiction, and deficiency in its provisions)), on the basis of the presence of urgency, and the state of extreme necessity that requires stopping implementation, due to the consequences resulting from its implementation that would affect the legal position it occupies, in addition to the financial consequences resulting from its implementation, which are difficult to address or remove, and because the implementation of Council of Representatives Resolution No. (50) of 2023 and Clause (First) of Parliamentary Order No. (189) dated 7/13/2023 and Paragraph (1) of the decision of the Presidency of the Council of Representatives dated 11/20/2023, at the present time arranges a change in the legal positions of the Council's advisors and in the manner In particular, his legal employment status, and because the decision to vote on Muhammad Ali Hussein Al-Ghazi in his capacity as

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(legal advisor) in the Council of Representatives stipulated in Clause (Fourth/10) thereof that the applicant's position, grade, and job title be canceled, and in light of it, the Financial Affairs Department in the Council declined to pay his salaries. His monthly allocations and financial dues for three (3) months, in addition to other financial dues, as of 7/13/2023, in order not to prejudice the origin of the right, and because responding to the request to suspend implementation would remedy the effects that result from the enforcement of these orders and decisions and prevent them from arranging any result that is difficult to remove until a decision is made on their validity or not, and this response from the court does not mean entering into the origin of the right or giving an opinion. Prior to the lawsuit filed before this court, No. (316/Federal/2023), and based on the provisions of Articles (151 and 152) of the Procedure Law No. (83) of 1969 as amended, and Article (39) of the internal regulations of the Federal Supreme Court No. (1) of the year 2022 Submit the request to issue an urgent guardianship order following the details mentioned above.

The Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the person requesting the issuance of the state order, due to his filing of the case No. (316/Federal/2023) before this court, requested, in accordance with his regulations dated 12/7/2023, the issuance of an urgent state order, which includes: ((Stop the implementation of Council of Representatives Resolution No. (50) of 2023, adopted in its session held on 9/12/2023, Parliamentary Order No. (189) on 7/13/2023, and Parliamentary Orders No. (184) and (185) on 10/6/2021, Republican Decree No. (88) of 2023, and the decision of the

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Presidency of the Council of Representatives dated 11/20/2023, until the aforementioned lawsuit is resolved, for the reasons referred to in detail in the regulation, and the Federal Supreme Court finds that issuing an urgent state order based on an independent request or implicitly in The constitutional cases brought before it was not addressed, it was also not addressed in the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021, nor the internal regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Al-Waqa'i newspaper, issue (4679) on 6/13/ 2022, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedures Law No. (83) of 1969 as amended, to the extent that is proportional to the nature and specificity of the constitutional lawsuit, based on the provisions of Article (39) of the internal regulations of the Federal Supreme Court referred to above, which stipulates that (the court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. (83) of 1969 as amended or any other law that replaces it) and in terms of Article (36) thereof, which stipulates that (Court decisions It is final and binding on all authorities and persons and is not subject to appeal by any means...)), on the basis of the above, the issuance of an urgent state order by the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Code, due to the finality of the decisions issued by this court and not being subject to methods of appeal, which consist of submitting a request in two copies containing the facts, evidence, and documents, and the availability The character of urgency, and the lack of entry into the origin of the right and deciding upon it, and since the examination of the request to issue the guardianship order by this court has proven that it does not have the character of urgency nor the state of

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necessity that requires its issuance, In addition to the above, responding to its content means entering into the root of the truth and giving a prior opinion on the lawsuit filed before this court, No. (316/Federal/2023) to challenge the invalidity of ((Council of Representatives Resolution No. (50) of 2023 taken in its session held on 9/12/) 2023, Parliamentary Order No. (189) on 7/13/2023, Parliamentary Orders No. (184) and (185) on 10/6/2021, Republican Decree No. (88) of 2023, and the decision of the Presidency of the Council of Representatives dated 11/20/2023) And cancel it, along with all its consequences, for the reasons indicated in detail in its petition. Given the above, the Federal Supreme Court decided to reject the request of the applicant for issuing the state order, Muhammad Yusuf Mahdi Al-Saadi. The decision has been issued unanimously, final, and binding according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (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 on the session dated 10/Jamada Al-Akhira/1445 Hijri coinciding 24/December/2023 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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