

Republic of Iraq  
Federal Supreme Court  
Ref. 10 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/7/2023 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 Requestor of Issuing the State Order: International Assistance Mission in Iraq and its Diagnostic Medical Centre  
Executive Director Dr. Sadiq Ali Asghar Nouredine Al-Husseini / being in this capacity.

Who Requested to Issue the State Order Against: 1- Minister of Finance in Kurdistan Region Government/ being in this capacity.  
2- Director-General of Kurdistan Region Customs Commission/ being in this capacity/ being in this capacity.  
3- President of Kurdistan Region Diwan/ being in this capacity.  
4- President of Kurdistan Region Representative office in Baghdad/ being in this capacity.

### **The Request:**

The applicant for issuing the state order submitted to the Federal Supreme Court his regulation dated 12/7/2023, for which the legal fee was collected on the same date and registered in the number (10 federal

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/state order/2023), which included the following: Those who are required by the state order against them have previously suspended the implementation of the official approvals issued by the federal authority represented by the Prime Minister's Office, the Ministry of Finance and the General Authority of Customs, which include facilitating the task of entering medical materials and equipment, food supplies and other materials - provided by the mission accredited in Iraq and its diagnostic medical center are a free donation to the Iraqi government - and zero its customs duties to include them in the exemptions stipulated in the Customs Law No. (23) of 1984, as amended according to Article (155/1<sup>st</sup>/Beh) thereof, and with the exceptions granted under government decisions following the Supreme Committee for National Health and Safety Resolution No. (18) of 2020, and the delay in their entry and delivery to the beneficiary government agencies in violation of the law, It is supposed to be received through the ports of the Kurdistan region, some of which have been destroyed due to their expiration, and others have suffered extinction and oxidation due to weather conditions and humidity by 70%, which led to their unsuitability for human consumption, and then environmentally damaged by the competent teams and in the presence of representatives of the concerned authorities, and the rest of the foodstuffs that are supposed to be entered since (11 months) pending the approval of their entry by the Kurdistan Regional Government Office, the Ministry of Finance and Economy and the Kurdistan Region Customs Authority, and then handed over to the authorities from the beneficiary government, to prevent it from being damaged and thus destroyed like the previous articles, after contacting the Turkish supplier and presenting the issue of the failure to bring it into Iraq, UNAMI was required to extend the validity of the contract, provided that the Mission cut off and transported the quantity within one

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year, after which the supply contract is considered effective and the value received is considered as its revenue. Therefore, in fairness to the mission accredited in Iraq and its medical center, the diagnosis and taking into account the fact that it is charged with very significant material damage such as the costs of contracting, procurement, legal and administrative consultations, shipping costs to ports of entry, wages resulting from delays at border crossings, and rental of yards and warehouses for a long period, the wages of which exceeded the amounts of purchase of those materials almost as delay fines incurred by the mission as a result of that delay, therefore, he requested the issuance of a state order to stop the procedures against whom the state order is requested related to stopping the entry of the remaining medical materials, equipment, supplies and other materials from the Ibrahim Al-Khalil border crossing, and until the lawsuit filed by the mission before the court is resolved in number (140/federal/2023) according to which (ruling on the realization of the right, correcting individual mistakes, and personal jurisprudence contrary to the law and public order by interpreting laws and decisions that cause harm to public and private interests, and returning the personal jurisprudence of the Minister of Finance and Economy in Kurdistan Regional Government in addition to his job for violating the law and not relying on any legal text in its margin proven on the original letter of the Kurdistan Region Customs Authority No. (17258) on 17/12/2020 that the articles are many ..)), according to the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and Article (39) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the request was submitted to issue an urgent state order in accordance with the aforementioned detail.

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### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit No. (140/Federal/2023) before this court, requested, according to his regulation dated 12/7/2023, to issue an urgent state order, including: (to stop the procedures required to issue the state order against them related to stopping the entry of the remaining medical materials, equipment, food supplies, and other materials donated free of charge to the Iraqi government from the Ibrahim Al-Khalil border crossing), until the aforementioned lawsuit is resolved, for the reasons detailed in the draft, the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional cases filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the Internal Regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Code of Civil Procedure No. (83) of 1969, as amended, and to the extent commensurate with the nature and privacy of the constitutional lawsuit, based on the provisions of Article (39) of the Rules of Procedure 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 replacing it)), and in accordance with Article (36) thereof, which stipulates that (the court's decisions are final and binding on all authorities and persons and cannot be challenged by any

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means of appeal...), on the basis of the foregoing, 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 Law, due to the finality of the decisions issued by this court and not being subject to the methods of appeal, which lie in submitting a request in two copies containing facts, grounds, and documents, and the availability of urgency, and not entering into the origin of the right and deciding on it, whereas the examination of the request for the issuance of the state order by this court has proven that it is not available as a matter of urgency or the state of necessity that requires its issuance, and responding to its content means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in number (140/Federal/2023) under which the judgment is required to achieve the right and correct individual errors and personal jurisprudence contrary to the law and public order by interpreting laws and decisions that cause harm to public and private interests and returning the personal jurisprudence of the Minister of Finance and Economy in a regional government Kurdistan in addition to his job for violating the law and not relying on any legal text in its margin fixed on the original letter of the Kurdistan Region Customs Authority No. (17258) on 17/12/2020 ..)), on the basis that this violates the provisions of the Constitution of the Republic of Iraq for the year 2005 and the laws in force, for the reasons detailed in the lawsuit petition, and that this contradicts the judicial customs established in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on, both constitutional and ordinary, and what is included in the well-established judicial applications in this field based on the provisions of the Constitution and the laws in force, based on the realization of the right and the achievement of justice and fairness

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away from tendencies, whims, arbitrariness, and flattery, there is no blame for the blame for what was really said or done, and therefore the decision on the request of the applicant to issue the state order must be rejected for two reasons: the first: it is the lack of urgency in it, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in the number (140/Federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the request. 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 (5/2<sup>nd</sup>) 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 4/Muharram Al-Haram/1445 Hijri coinciding 23/July/2023 AD.

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

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