

Republic of Iraq
Federal Supreme Court
Ref. 10/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 5/5/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jaber Abid Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali, and Khalid Taha Ahmed who are authorized in the name of the people to judge and they made the following decision:

The Applicants for issuing the state order: Talib Abdel Moneim Negm, Watheq Ghadban Khudair, Ali Hussein Yahya, Ali Abdul Kazem Sarhan, Saif Ali Abdul Kazim, Thuraya Khalaf Abdul Abbas and Zahraa Ziad Atshan.

Who required to issue a state order against them:

1. Head of the Iraqi Parliament / being in this capacity.
2. Parliamentary Health and Environment Committee / being in their capacity.

Abstract of the Request:

The applicants for issuing the state order submitted to the Federal Supreme Court, their list dated 2/5/2024, for which the legal fee was collected on the same day, and was registered in the number (10/federal/state order/2024) according to which an urgent state order is required to be issued that includes ((suspending the implementation of the National Authority for Nuclear, Radiation, Chemical and Biological Regulation Law No. (1) of 2024 because of the irregularities and contradictions in its paragraphs and the occurrence of injustice against the workers in the field of radiation in health institutions in the event of issuing its instructions and the expiry of the legal appeal period from the date of its publication on April 8, 2024) until the

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lawsuit filed by them before this court is resolved in the number (124/Federal/2024) according to which the judgment is claimed with fairness for the segment of radiation workers in all health institutions in Iraq in order to deprive them of their privileges and their legitimate and legal rights stipulated by the law No. (99) of 1980 and international conventions despite the danger of their work as they were not covered by the provision of Article (18) of the new law which decided the rights of workers in the field of gamma ray generators, X-ray generators, accelerators of all kinds and the production of radioisotopes, despite their work in hospitals and health centers, as well as not being covered by Articles (19-h, d) and (20) which decided to grant workers annual leave and regulated the provisions of retirement salary and retirement service)) after reviewing the application and completing the scrutinies, the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicants for the issuance of the state order, due to their filing of the lawsuit No. (124/Federal/2024) before this court, requested, by virtue of their regulation dated 2/5/2024, to issue an urgent state order that includes ((suspending the implementation of the National Authority for Nuclear, Radiation, Chemical and Biological Regulation Law No. (1) of 2024 because of the irregularities and contradictions in its paragraphs and the occurrence of injustice against workers in the field of radiation in health institutions in the event that his instructions are issued and the legal appeal period expires from the date of its publication on April 8, 2024, until the lawsuit filed before this court is resolved in number (124/federal/2024), for the reasons detailed therein, the Federal Supreme Court finds that the issuance of

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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 Civil Procedures Law 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 internal regulations of the Federal Supreme Court referred to above, which stipulated 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 stipulated that (the decisions of the court are final and binding on all authorities and persons and are not subject to appeal by any 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, evidence and documents, and the availability of urgency, and not entering into the original right and deciding on it, and since the examination of the request for the issuance of the state order from this court has proven that it is not urgent, nor is it a state of necessity, which requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court No.

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(124/Federal/2024), this is contrary to the established judicial customs in the constitutional districts of Arab and foreign countries, and with what has been settled by the Iraqi judiciary, 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 away from tendencies, whims, arbitrariness and flattery, there is no blame for what was really said or done, and in view of the foregoing, the Federal Supreme Court decided to reject the request for the issuance of the urgent state order submitted by Talib Abdualmonem Najm and Watheq Ghadban Khudair, Ali Hussein Yahya, Ali Abdul Kazem Sarhan, Saif Ali Abdul Kadhim and Thuraya Khalaf Abdul Abbas and Zahraa Ziad Atshan. The decision has been issued unanimously, final and binding based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005, Article (5/2nd) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021 and it has been made clear on the session dated 26/Shawwal/1445 A.H. corresponding to 5/5/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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