

Republic of Iraq
Federal Supreme Court
Ref. 13/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/8/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Ghaleb Amir Shunain, Hayder Jaber Abid Hayder Ali Noori, Khalef Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali , Khalid Taha Ahmed, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Requestor of issuing the State Order:

1. Hassan Turan Bahaaldin Saeed /
President of the Iraqi Turkmen Front /
being in this capacity and
Chairman of the United Iraq Turkmen Front list.
 2. Sawsan Abdul Wahid Shaker /
Member of Kirkuk Provincial Council.
- Their agent the
barrister
Mahmud Akram Taha

Whom requested to issue the State Order against:

1. Abdul Latif Rashid, President of the Republic of Iraq
/ being in this capacity.
 2. Rebwar Taha Mustafa.
 3. Mohammed Ibrahim Hafedh
 4. Hoshyar Hijran Najmaldin.
 5. Anjeel Zea Sheba.
 6. Raad Saleh Husain.
 7. Zahir Anwar Assi.
 8. Nashat Shahwiz Khurshid
 9. Ahmed Fatih Mustafa.
 10. Parwin Fatih Hamid Aref.
- Members
Of
Kirkuk
Provincial
Council.

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 13/ federal/state order /2024



Kurdish text

The request:

The applicants for the issuance of the state order, through the mediation of their agent submitted to this court their list dated 12/8/2024, and after collecting the legal fee for it on the same date, it was registered in the number (13/federal/state order/2024), according to which they requested the issuance of an urgent state order stipulating the following: ((Suspension of the implementation of the procedures of the session held by the person against whom the state order is requested- (2 to 10-Members of the Kirkuk Provincial Council) on 10/8/2024, and the results of the appointment of the Chairman of the Provincial Council and the Governor of Kirkuk, and instructing the person required to issue the first state order against him (the President of the Republic in addition to his job)not to issue a presidential decree for the person against whom the second state order is required - Rebwar Taha Mustafa, until the lawsuit filed before this court is resolved in the number (213/Federal/2024) - according to which the ruling is required to annul the session and its outcome of the results)), for the reasons stated in the regulation, which lies in its conclusion: that the session held on 10/8/2024 at the Al-Rasheed Hotel in Baghdad Governorate was on Saturday, corresponding to an official holiday, and did not meet the legal formality necessary for the convening, as the older member was not officially and written informed, and there was no invitation from the older member (Rakan Saeed Ali) he was also not informed, in order to inform the rest of the members of the date and location of the session, despite the issuance of administrative order No. (1036 on 15/7/2024 - which includes directly the members of the provincial council as an original member of the council as of the date of the first session on 11/7/2024, and the session was managed without the head of the age in it and in the absence of the rest of the components because they were not

Zainab



aware of it, as it was held outside the province of Kirkuk surreptitiously and without an excuse or a good reason that requires it to be conducted outside the governorate, thus, the session held has violated the text of Article (7) of the law of governorates not organized in the region No. (21) of 2008, as amended, which included that the oldest member is the one who manages the session specified for the election of the Chairman and Vice-President of the Council, and then the election of the Governor and this is done by informing the winning members of the Provincial Council to attend the place and time specified for the session to elect the Chairman and Vice-President of the Council, and the subsequent election of the Governor at a date determined in advance by the President of the Council the elderly, and as the session did not meet the objective conditions, as Kirkuk governorate is one of the provinces which the law requires that there be representation of all its components without marginalizing or excluding any of them, and the evidence of this what is stipulated in Article (13/4th) of Law No. (4) of 2023 - the third amendment to the Council of Representatives Elections Law and the provincial and district councils No. (12) of 2018, which stipulated that (power sharing is done with fair representation) to ensure the participation of the components of the governorate regardless of the results of the elections), where the student of issuing the second state order was deliberately excluded from the session, especially since she represents a large segment of the Iraqi people, represented by the Turkmen component in addition to the marginalization and exclusion of large blocs that won the elections, this behavior also threatens security and societal peace in Kirkuk province, because it involves the marginalization and deliberate exclusion of the Turkmen component, as well as for large blocs that won the elections, which are considered a coup against democracy and a negative for the will of the people to

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 13/ federal/state order /2024



Kurdish text

choose who represents them. After reviewing the application and conducting its 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 issuing the state order, due to their filing of the lawsuit No. (213/Federal/2024) before this court, requested according to their drafts dated 12/8/2023, to issue an urgent state order that includes: ((Suspension of the implementation of the procedures of the session held by the members of the Kirkuk Provincial Council on 10/8/2024, and the consequences of appointing the head of the provincial council and the governor of Kirkuk and instructing the person required to issue the first state order against him (The President of the Republic in addition to his job) not to issue a presidential decree for the person against whom the second state order is required to be issued - Rebwar Taha Mustafa)), until the lawsuit filed before this court is resolved with the number (213/Federal/2024 – Claimant ruling to annul the hearing and its results), for the reasons detailed in the regulations, 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 Civil Procedure Law No. (83) of 1969, as amended, to the extent commensurate with the nature and specificity of the constitutional case, based on the provisions of Article 39 of the aforementioned Rules of Procedure of the Federal Supreme

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 13/ federal/state order /2024



Kurdish text

Court, 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)), in terms of Article (36) thereof, which stipulates that (the court's decisions are final and binding on all authorities and persons and shall not be 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 it is not subject to the methods of appeal, which consist 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 scrutiny of the application for the issuance of the state order by this court it has been proven that there is no urgency in it nor the state of necessity that requires its issuance, and responding to its content means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court in issue (213/Federal/2024), and that this contradicts with the established judicial customs in the constitutional districts of Arabic 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 away from tendencies, whims, arbitrariness and flattery, there is no blame for what has really been said or done, and thus the decision on the request of the applicant to issue the state order, the duty to reject it for two reasons: the first: it is the lack of urgency, and the second: it lies in the fact that deciding on it

Zainab

Republic of Iraq
Federal Supreme Court
Ref. 13/ federal/state order /2024



Kurdish text

means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in the number (213/Federal/2024), according to the aforementioned detail, in view of the above, the Federal Supreme Court decided to reject the application, and the decision has been issued unanimously, final and binding in accordance with the provisions of Article (94) of the Constitution of the Republic of Iraq of 2005, and 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 edited in the session dated 13/Safar/1446 A.H. Corresponding to 18/8/2024 AD.

Judge
Jassim Mohammad Abood
President of the Federal Supreme Court

Zainab