

Republic of Iraq  
Federal Supreme Court  
Ref. 169 / 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: President of the Cooperative Society for Housing / being in this capacity – his agent the barrister Abdul Wahid Abdul Qadir.

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

### **The Request**

The applicant for issuing the state order submitted to the Federal Supreme Court the statement of claim dated 16/7/2023, for which the legal fee was collected on the same date and registered in the number (169/Federal/2023) under which the claim is made, (ruling on the unconstitutionality of Article (20/7<sup>th</sup>) of Law No. (13) of 2023 ((The Federal General Budget of the Republic of Iraq for the years (2023, 2024, 2025))), which stipulated that ((Cooperative societies established under the provisions of the Cooperation Law No. (15 of 1992, as amended) are prohibited from disposing of real estate that Owned or owned by the state, whether it is the excretion, sale, distribution of land to their employees or others, or disposing of it for a purpose other than the purpose for which it was owned by establishing its headquarters, otherwise, the Minister of Finance must recover them in accordance with the law with the suspension of the provisions of Article (Thirty-

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fourth of the aforementioned Law)), and also requested the issuance of an urgent state order to suspend the implementation of the article - the subject of the challenge - until the case is resolved, as the aforementioned law came unfair to the rights of cooperative organizations over their various activities, whereas cooperative work, in accordance with Act No. 15 of 1992, as amended, is a public, social, economic and self-financed organization and is one of the institutions belonging to the Arab Cooperative Union, employing a large segment of employees and workers in its organizations, raising the burden of the State not a small number of workers within the cooperative movement; The law, the subject of the lawsuit, decided to suspend Article 34 with its ten paragraphs without discussing them separately, which negatively affects the cooperative sector, which is the pillar in the work of the Iraqi ministries. Each ministry includes one or two cooperative societies, including housing, consumer and service, which serve and develop its members to reform their economic situation, and for the foregoing, and based on the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and Article (39) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, the application was submitted to issue an urgent state order in accordance with the aforementioned detail.

### **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 constitutional lawsuit No. (169/Federal/2023) before this court, requested, by virtue of his regulation dated 16/7/2023, to issue an urgent state order, including: Suspending the implementation of Article

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(20/7<sup>th</sup>) of Law No. (13) of 2023 ((Federal General Budget of the Republic of Iraq for the years (2023, 2024, 2025)), until the case is resolved, for the reasons detailed in its petition, 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, 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, and to the extent commensurate with the nature and specificity of the constitutional lawsuit, and 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) of which stipulates that: (The decisions of the court are final and binding on all authorities and persons and do not accept 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 subject to the methods of appeal, which is to submit a request in two copies containing facts, substantiations and documents, the availability of urgency, and the non-entry into the origin of the right and the decision thereon, in addition to the above, responding to its content means entering into the origin of the right and giving a prior opinion on the

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constitutional lawsuit filed before this court No. (169/Federal/2023) under which the ruling on the unconstitutionality of Article (20/7<sup>th</sup>) of the Federal Budget Law of the Republic of Iraq for the years (2023, 2024, 2025) No. 13 for the year 2023, for the reasons detailed in its petition, and that this contradicts the established judicial customs 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 away from tendencies, whims, arbitrariness and flattery, there is no blame for what was really issued in terms of words or deeds, and thus the decision on the request of the applicant to issue a state order, should be rejected for two reasons: the first: it is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court No. (169/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 with 23/July/2023 AD.

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

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