

Republic of Iraq  
Federal Supreme Court  
Ref. 175 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 1/8/2023 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: Chairman of the Committee supervising the work of the General Union for Cooperation/ being in this capacity – his agent the barrister Gaith Mohammed Khazaal.

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

### **The Request**

The applicant for the issuance of the state order submitted to the Federal Supreme Court the statement of claim dated 24/7/2023, for which the legal fee was collected on the same date and registered in the number (175/Federal/2023) under which the claim is made, (ruling on the unconstitutionality and annulment 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 owned or Owned by the State, whether by excretion, sale, distribution of

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land to their employees or others, or disposing of it for purposes other than the purpose for which it was owned by establishing its headquarters, otherwise the Minister of Finance shall recover it in accordance with the law with the suspension of the provisions of Article Thirty-Four 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, the requirement to issue a state order against him ignores the fact that cooperative organizations are an important, independent and non-government-subsidized economic sector that develops the economic situation of public bodies and citizens, and targeting of Article (34) of Law No. (15) of 1992, as amended, which aims to serve the public interest, is contrary to the spirit of the law and delays cooperative work and thus entails a burden on the state), 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 request 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. (175/Federal/2023) before this court, requested, under his regulation dated 24/7/2023, to issue an urgent state order, including Suspending the implementation of Article (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, and the Federal Supreme Court finds that the issuance of a state order Urgent at the request of an independent or

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implicit in the constitutional cases filed before it that have not been addressed, it has also not 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, and to the extent commensurate with the nature and privacy of the constitutional lawsuit, and based on the provisions of Article (39) of the Bylaw 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 accordance with Article (36) thereof, which stipulates that: (The court's decisions are final and binding on all authorities and persons, and no appeal is accepted by any means of appeal...) based on 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 lies in submitting a request in two copies that include the facts, evidence and documents, and the availability of urgency, and not entering into the origin of the right and deciding on it, and since the audit of the request for the issuance of the state order by this court has proven the lack of urgency in it nor the state of necessity that requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion of the constitutional lawsuit filed before this court No. (175/Federal/2023) under which the ruling on the unconstitutionality of the article required

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to be suspended implemented, for the reasons detailed in its petition)), this contradicts the established judicial norms 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 following 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 the blame for what was really issued in words or deeds, and thus the decision on the request of the applicant to issue the state order, must be rejected for two reasons: the first: is the absence of urgency and the state of necessity that requires its issuance, and the second: lies in the fact that deciding on it means entering the origin of the right and giving a prior opinion of the aforementioned constitutional lawsuit, when 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 13/Muharram Al-Haram/1445 Hijri coinciding with 1/August/2023 AD.

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

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