

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 30/6/2024 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 Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Applicant for the issuance of the state order: International Assistance Mission accredited in Iraq and its diagnostic medical center - its Executive Director Sadiq Ali Asghar Nooraldine al-Husaini / being in this capacity.

Who is required to issue a state order against him: the Prime Minister of the Kurdistan Regional Government / being in this capacity.

Abstract of the request:

The applicant for the issuance of the state order submitted to the Federal Supreme Court his regulation dated 26/6/2024, for which the legal fee was collected on the same date, and registered in the number (181/Federal/2024) according to ((which the judgment invalidating the decision of the Kurdistan Regional Government to suspend the application of the Customs Law No. (23) of 1984 in force, and amending the application of the customs rules in force for (transit) transport stipulated in Article (85) thereof, and preventing the passage of donations and donations received to state departments and the government sector pursuant to Article (155/1st/Beh) thereof, and preventing goods in transit and restricting them according to the transit status in application of the provisions of Article (87) thereof, and ruling to cancel and invalidate all its effects, for violating them the provisions of Articles (110 and 130) of the Constitution of the Republic of Iraq of

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

2005, and the ruling invalidating the decision of the Kurdistan Regional Government to suspend the application of the Law of Accession of the Republic of Iraq to the TIR Convention of 1975, No. (6) of 2020 in force, for violating the provisions of Article (130) of the Constitution, Ruling the invalidity of the Kurdistan Regional Government's decision to suspend the application of the Law Ratifying the TIR Convention between the Government of the Republic of Iraq and the Government of the Republic of Turkey No. (193) of 1980 in force, for violating the provisions of Article (130) of the Constitution this)) is for the reasons detailed in the regulation, including that the court had previously dismissed the lawsuit filed by it in number (140/federal/2023) according to the form in which it was filed, and for the continuation of political disputes and disputes between the federal government and the Kurdistan Regional Government and the continued disruption of the latter to the application of the aforementioned laws and customs rules, which resulted in the mission and its diagnostic medical center being directly damaged and prevented from obtaining its rights in the ways prescribed by the law and resulted in contractual obligations, financial loss and legal expenses, this prompted it to suspend its activities, withdraw its staff and medical staff, and terminate its humanitarian programs and curriculum, and its voluntary work in Iraq and following the legal methods laid down by its international umbrella and its legal basis the Vienna Convention on Diplomatic Relations of 1961, Ratified by Law No. (20) of 1962 in force published in the Iraqi Gazette No. (667) on 24/4/1962, of being operating under the umbrella of the United Nations and covered by its provisions in accordance with the rules of international arbitration, and for what was contained in its official founding papers and its assignment by the international community to directly supervise the camps for displaced Kurds in northern Iraq and

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

Turkey it requested the arbitration of the Court of Arbitration of the International Centre for Dispute Resolution with a final and binding judgment related to the extent to which Iraq implements its international obligations stipulated in the law of Iraq accession to the Convention on Recognition the Foreign Arbitral Awards and their enforcement (New York 1958) No. (14) of 2021 in force, for violating the obligations of accession to the TIR Convention the transit traffic system of 1975 stipulated in Law No. (6) of 2020 in force, by preventing the Kurdistan Regional Government from transporting donations including food, medicine, and other basic and humanitarian needs in (transit) from border crossings it controls and illegally causing damage to them, causing deliberate damage to the mission accredited to Iraq and its diagnostic medical center, and to obtain the official approvals issued for the Federal Authority, which includes facilitating the entry and transport of medicines, medical supplies and equipment and supplies received from the ports of the Kurdistan Region according to the (transit) system as a free donation to the Iraqi Government and other materials to support the stabilization and promotion of the return and shelter of the displaced, it also requested under its above regulation the issuance of a state order ((obliging the Prime Minister of the Kurdistan Region, being in this capacity, not to subject the incoming materials to the tasks and uses of the mission accredited in the Iraq and its diagnostic medical center in accordance with the transit status of the Kurdistan Region's border crossings to prevention and restriction in application of the provisions of Article (87) of the Customs Law No. (23) of 1984 in force, and in accordance with Articles (85 and 155/1st/Beh) thereof, and the Law of Accession of the Republic of Iraq to the TIR Convention No. (6) of 2020 window, and to suspend the application of the law ratifying the TIR Convention between the Government of the Republic of Iraq and

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

the Government of the Republic of Turkey No. 193 of 1980 in force, and the fact that the mission accredited in Iraq and its diagnostic medical center operate under the umbrella of the United Nations and are covered by the provisions of the Vienna Convention on Diplomatic Relations of 1961, and in compliance with paragraph (6/item 1) - exempt from customs duties and taxes in accordance with the Vienna Convention on Diplomatic Relations on 18/4/1961) of the Convention establishing it under the United Nations Security Council Resolution No. (688) of 1991, as amended, and the fulfillment of the stipulated conditions Articles 151 and 152 of the Civil Procedure Law and based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022)), after reviewing the application and conducting the scrutinies the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, requested, according to its regulation dated 26/6/2024, to issue an urgent state order that includes ((obliging the Prime Minister of the Kurdistan Region, being in this capacity, not to subject the incoming materials) for the tasks and uses of the accredited mission in the Iraq and its diagnostic medical center in accordance with the transit status of the Kurdistan Region border crossings for prevention and restriction in application of the provisions of Article (87) of the Customs Law No. (23) of 1984 in force, and in accordance with Articles (85 and 155/1st/Beh) thereof, and the Law of accession of the Republic of Iraq to the TIR Convention No. (6) of 2020 in force, and the suspension of the application of the Law Ratifying the TIR Convention between the Government of the Republic of Iraq and the Government of the Republic of Turkey No. (193) of

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

1980 in force and the fact that the mission accredited in Iraq and its diagnostic medical center operate under the umbrella of the United Nations and are strictly covered by the Vienna Convention on Diplomatic Relations of 1961, in compliance with paragraph (6/item 1-exempt from customs duties and taxes in accordance with the Vienna Convention on Diplomatic Relations on 18/4/1961) of its founding agreement under the United Nations Security Council Resolution No. (688) of 1991, as amended, and to meet the conditions stipulated in Articles (151 and 152) of the Civil Procedure Law)), until the resolution of the case numbered (181/Federal/2024) filed before it, for the reasons detailed in the regulation, the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in Constitutional lawsuits filed before it It is not addressed, nor is it addressed in the Federal Supreme Court Law No. 30 of 2005, as amended by Law No. 25.for the year 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 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 Rules of Procedure the aforementioned Federal Supreme 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 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 cannot be challenged 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

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, because the decisions issued by this court are conclusive and not subject to the methods of appeal, which lie by submitting an application in two copies, including the facts, evidence and documents, and the availability of urgency, and not entering into the original right and deciding on it, whereas the examination of the request for the issuance of the state order from this court has proven that it is not urgent, 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 lawsuit filed before this court in number (181/Federal/2024) under which requested ((Ruling on the invalidity of the Kurdistan Regional Government's decision to suspend the application of the Customs Law No. (23) of 1984 in force, and amending the application of the customs rules in force for transit transport provided for in Article 85 thereof, it prevents the passage of donations and donations received to state departments and the government sector pursuant to Article (155/1st/Beh) thereof, and prevents goods passing through and restricts them according to the transit status in application of the provisions of Article (87) thereof, and orders the cancellation and annulment of all its effects for violating the provisions of Articles (110 and 130) of the Constitution of the Republic of Iraq of 2005, and the ruling invalidating the decision of the Kurdistan Regional Government to suspend the application of the Law of Accession of the Republic of Iraq to the TIR Convention of 1975, No. (6) of 2020 in force, for violating the provisions of Article (130) of the Constitution, and ruling the invalidity of the Kurdistan Regional Government's decision to suspend the application of the Law Ratifying the TIR Convention between the Government of the Republic of Iraq and the Government of the Republic of Turkey No. (193) of 1980 in

saady

Republic of Iraq
Federal Supreme Court
Ref. 181 / federal/state order /2024



Kurdish text

force, for violating the provisions of Article 130 of the Constitution)), this is contrary to the established judicial customs in the constitutional districts of Arabic and foreign States, and to what the Iraqi judiciary has settled, both constitutional and ordinary, and to the well-established judicial applications in this area 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 in view of the above, the Federal Supreme Court decided to reject the request to issue the urgent state order submitted by the International Assistance Mission accredited to Iraq and its diagnostic medical center - its executive director Sadiq Ali Asghar Nooraldine Al-Husseini / being in this capacity, and the decision has been issued unanimously, final and binding based on 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 made clear in the session dated 23 / Dhu al-Hijjah / 1445 A.H. corresponding to 30/6/2024 AD.

Judge
Jassim Mohammed Abood
President of the Federal Supreme Court

saady