

Republic of Iraq  
Federal Supreme Court  
Ref. 223 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/9/2023 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: the Prime Minister/ being in this capacity – his agent the legal counselor Ghadeer Jaafar Dawood.

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

### **The Abstract of the Request**

The applicant for the issuance of the state order submitted to the Federal Supreme Court the statement of claim dated 14/9/2023, for which the legal fee was collected on the same date and registered in the number (223/Federal/2023) under which the claimant is claimed, ruling on the unconstitutionality of Article (71) of Law No. (13) of 2023 Federal Budget of the Republic of Iraq for the fiscal years (2023, 2024, 2025) published in the Iraqi Gazette No. (4726) dated 26/6/2023, on the basis of its violation of the provisions of the Constitution of the Republic of Iraq for the year 2005, and reversing the Court's previous decision No. 153/Federal/2023 and its annex (153/Federal/2023/Correction) according to the detail referred to therein, and charging the defendant being in this capacity fees, expenses and advocacy fees, he also demanded the issuance of an urgent state order (suspending the provision of Article (71) of Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023, 2024, 2025)), until the aforementioned lawsuit is resolved, and for the foregoing, and based on the provisions of Articles (151 and 152) of the Code of Procedure No. (83) of 1969 as amended and Article (39) of the Rules of Procedure 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.

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### **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 lawsuit No. (223/Federal/2023) before this court, requested, by virtue of his regulation dated 14/9/2023, to issue an urgent state order, including: Suspending the provision of Article (71) of Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023, 2024, 2025), until the aforementioned lawsuit is resolved, for the reasons detailed in the lawsuit 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, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Code of Civil Procedure No. 83 of 1969 as amended, to the extent commensurate with the nature and specificity of the constitutional lawsuit, 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) thereof, which stipulates that (the court's decisions are final and binding on all authorities and persons and cannot be challenged in any way Methods 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 an application 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, and since the examination of the request for the issuance of the state order by this court has proven that it is not available as a matter of urgency nor State of necessity requiring its promulgation, in addition to the foregoing,

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responding to its content means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court in number (223/Federal/2023) under which (ruling on the unconstitutionality of Article (71) of Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023, 2024, 2025)), 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, 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, therefore, the decision on the request of the applicant to issue the state order must be rejected for two reasons: the first: the lack 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. (223/Federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the request of the applicant to issue the state order Prime Minister / being in this capacity including the demand ((suspension of the provision of Article (71) of Law No. (13) of 2023 Federal Budget of the Republic of Iraq for the fiscal years (2023, 2024, 2025), until the resolution of the constitutional lawsuit filed before this court No. 223/Federal/2023)).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 2/Rabea Al-Awal/1445 Hijri coinciding with 18/September/2023 AD.

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

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