

Republic of Iraq
Federal Supreme Court
Ref. 248 / federal /state order/2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/11/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalef Ahmed Rajab, 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: Yousef Mohammed Sadiq Abdul Qadir/ Member of the former ICR.

Who requested to issue the State Order against: Speaker of Iraq Kurdistan region Parliament/being in this capacity.

The subject of the Request: issuance of an urgent state order to suspend working by law No. (12) for 2022 (the law of the fifth circle of Kurdistan region parliament – Iraq) and to suspend all the procedures, powers, and works which could be taken by whoever requested to issue the state order against and his two deputies, until deciding the challenge of the aforementioned law constitutionality according to the case initiated before this court by the No. (248/federal/2022).

The Request

The plaintiff Yusuf Muhammad Sadiq Abdul Qadir filed before this court the lawsuit numbered (248/federal/2022) against the defendant, the Speaker of the Kurdistan Regional Parliament, in addition to his job, for which the legal fee was collected on 7/11/2022, requesting a ruling on the unconstitutionality of Law No. (12) of 2022 (Law on the Continuation of the Fifth Session of the

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Kurdistan Parliament of Iraq) for the reasons stated in the lawsuit petition and also requested the issuance of an urgent state order to suspend the application of Law No. (12) of 2022 (Law on the Continuation of the Fifth Session of the Parliament of the Kurdistan Region – Iraq) and to suspend all procedures, powers, and actions that can be taken by the person against whom the state order is requested to be issued, the Speaker of the Kurdistan Regional Parliament and his two deputies until a decision is made to challenge the constitutionality of the aforementioned law under the lawsuit filed before this aforementioned court for the reasons detailed in the petition, and on the basis of the foregoing, the request was submitted to issue the urgent state order, based on the provisions of Articles (151 and 152) of the Code of Procedure. Civil No. (83) of 1969, as amended and in accordance with Articles (36 and 39) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022.

The Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the submitted request included (issuing an urgent state order to suspend the application of Law No. (12) of 2022 (the law on the continuation of the fifth session of the Kurdistan Parliament - Iraq) and to suspend all procedures, powers, and actions that can be taken by the person who is required to issue the state order against him and his deputies until a decision is made to challenge the constitutionality of the aforementioned law under the lawsuit filed before this court No. (248/Federal/2022) for the reasons referred to in detail in the lawsuit petition), and you find Federal Supreme Court, the issuance of an urgent state order based on an independent request or implicit in the constitutional cases filed before

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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. The amendment, and 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 (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 following Article (36) thereof, which stipulates (Court decisions are final and binding on all authorities and persons and shall not accept an appeal by any means of appeal...) based on the foregoing, the issuance of a 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, because of 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 that includes the facts, evidence and documents, and the availability of urgency, and not to enter into the original right and decide on it, whereas the scrutiny of the request for issuing the state order by this court has proven that it is not urgent nor the state of extreme necessity that requires its issuance, in addition to the above, responding to its content means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court No. (248/Federal/2022) according to which it is required to rule on the unconstitutionality of

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Law No. (12) of 2022 (Law on the Continuation of the Fifth Session of the Kurdistan Parliament – Iraq) for the reasons detailed in the lawsuit petition, and that It contradicts the established judicial customs in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on in both its constitutional and ordinary parts and what is included in 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, so there is no blame for the blame for what was issued in words or deeds, and thus the decision on the request of the applicant to issue the state order, and it shall be rejected for two reasons: the first: is the absence of urgency, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion on the aforementioned lawsuit, and for the foregoing, the Federal Supreme Court decided to reject the request. The decision has been made unanimously, decisive, and binding for all powers according to the provisions of article (94) of the Republic of Iraq for 2005 and article (5/2nd) of the FSC's Law No. (30) for 2005 which was amended by the Law No. (25) for 2021. The decision has been edited in the session dated 26/Rabee Al-Akhir/1444 Hijri coinciding with 21/November/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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