

Republic of Iraq
Federal Supreme Court
Ref. 24 / state order/federal /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 5/12/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalaf 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: Representative Ahmed Raheem – his agents the barristers Sadiq Rasool Al-Muhanna and Nada Abdul Ridha Al-Juboori.

Whom requested to issue the State Order against: the Prime Minister/
being in this capacity.

First- the abstract of the request:

Ahmed Rahim Azerg Al-Rudaini, through his agents, requested his list submitted to this court dated 3/8/2022, for which the legal fee was collected on the same date and registered in the number (24/Federal/State Order/2022), to issue an urgent state order, which includes: ((Suspension of the application of the Diwani order issued by the person against whom the state order is required, on 26/7/2022, which includes assigning (Raed Juhi) to head the Intelligence Service and assigning (Amer Al-Helou) as his agent)), until the subject matter of the lawsuit filed by him before this court is resolved with the number (176/ Federal/2022), under which the request for the cancellation of the aforementioned Diwani Order was based on the violation of the provisions of the Constitution of the Republic of Iraq of 2005 in Article (64/2nd) thereof, Which determined the validity of the current government after the early parliamentary elections on 10/10/2021 as a

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caretaker government, And Article (61/V/b), which concerns the Council of Representatives to approve the appointment of holders of special degrees at the proposal of the Council of Ministers, which constitutes a clear violation of the text of Article (80/V) of the Constitution, and also violates Article (42) of the Internal Regulations of the Council of Ministers No. (2) of 2019, in addition to violating the decisions of the Federal Supreme Court binding on all authorities, including Resolution No. (121) of 2022, so based on the provisions of Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, submitted The request for the issuance of an urgent state order in accordance with the details referred to above.

Second-The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to his filing of lawsuit No. (176/Federal/2022) before this court, requested in its regulation dated 3/8/2022, the issuance of an urgent state order, which includes: (Suspension of the application of the Diwani order issued by the person against whom the state order is required, dated 26/7/2022, which includes assigning (Raed Juhi) to head the Intelligence Service and assigning (Amer Al-Helou) as his agent, until the subject of the aforementioned lawsuit is resolved, according to which the aforementioned order is canceled, and the court finds Federal Supreme, 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

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referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of the year 1969 as amended, and 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 of the Federal Supreme Court referred to above, Which stipulated (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 (court decisions 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 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, For the finality of the decisions issued by this court and not being subject to the methods of appeal, which consist in submitting an application in two copies including the facts, evidence and documents, and the availability of urgency, and not to enter into the origin of the right and decide on it, and since the scrutiny of the request for issuing the state order by this court has proven that there is no urgency in it or the state of extreme necessity that requires its issuance, in addition to the foregoing, responding to its content means entering into the origin of the right and giving a prior opinion on the validity of the aforementioned Diwani order, and that 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 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,

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whims, arbitrariness and flattery, there is no 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, the duty to reject for two reasons: the first: is the absence of urgency in it, and the second: lies in the fact that deciding on it means entering into the origin of the right and giving a prior opinion on the validity of the aforementioned Diwani order. accordingly, the Federal Supreme Court decided to reject the request. The decision has been made unanimously, final, and binding for all powers according to provisions of articles (94) of the Republic of Iraq Constitution for 2005, and articles (5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been edited in the session dated 10/Jamada Al-Oula/1444 Hijri which coincided 5/December/2022 A.D.

Signature of
The president
Jasem Mohammad Abboud

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