

Republic of Iraq  
Federal Supreme Court  
Ref. 259 / federal /state order/2022



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 7/12/2022 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: Mohammed Abdul Sada Al-Asdi – his agent the barrister Saif Mahir Al-Asdi.

Who requested to issue the State Order against:

- 1- The Prime Minister/ being in this capacity.
- 2- Head of the executive office of the Media and Telecommunication Commission/ being in this capacity.

### **First: the Abstract of the Request**

The applicant for issuing the state order submitted to the Federal Supreme Court, through his representative, the statement of claim dated 20/11/2022, for which the legal fee was collected on the same date and registered with the number (259/federal/2022) according to which it is claimed, ((the judgment obliging the person against whom the state order is required to be issued / in addition to their functions to apply the provisions of the Constitution and the law correctly and to cancel the Diwani Order No. (22143) on 14/11/2022 containing the reassignment of (Ali Hussein Abdul Qader Al-Moayyed) to head the executive body of the Media and Communications Commission

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and the cancellation of the resulting violations, On the basis of its violation of the provisions of the Constitution of the Republic of Iraq of 2005 and the laws in force)), he also requested the issuance of an urgent state order to stop the aforementioned Diwani order, and to cancel the resulting violations, until the aforementioned lawsuit is resolved for the reasons detailed in the lawsuit petition, 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 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.

### **Second: The Decision**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order requested, according to the statement of claim filed before this court No. (259/Federal/2022), to issue an urgent state order, which includes: ((Suspension of Diwani Order No. (22143) on 14/11/2022 containing the reassignment of (Ali Hussein Abdul Qader Al-Moayyed) to head the executive body of the Media and Communications Commission, and the cancellation of the resulting violations, until the aforementioned lawsuit is resolved)), for the reasons detailed in the lawsuit petition, and 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

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Rules of Procedure 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 in accordance with 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 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, for the finality of the decisions issued by this court and not being subject to the methods of appeal, which consist in applying two copies including the facts, grounds, and documents, and the availability of urgency, and not to enter into the original 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 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 with the number (259 / federal / 2022) mentioned in its details above, 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 on in both its

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constitutional and ordinary parts 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 And whims, arbitrariness and flattery, there is no blame for the blame for what was really issued of words or deeds, and thus the decision on the request of the applicant to issue the state order, should be rejected for two reasons: the first: it is the absence of urgency, and the second: it lies in the fact that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court No. (259 / federal / 2022), according to the detail mentioned above, and for the foregoing, the Federal Supreme Court decided to reject the request. The decision has been made unanimously, final, and binding according to the provisions of article (94) 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 in the session dated 12/Jamada Al-Oula/1444 Hijri coinciding with 7/December/2022 AD.

**Signature of**  
**The president**  
**Jasem Mohammad Abbood**

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