

Republic of Iraq
Federal Supreme Court
Ref. 25 / federal/state order /2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 7/9/2022 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: Nassar Zughair Al-Rubaie/ Secretary-General of Sadrist Bloc/ being in this capacity – his agent the barristers Abdul Mahdi Hasan Al-Mutairi and Wathiq Qasim Matroud.

Who requested to issue the custodian order against: 1- the President of the Republic/ being in this capacity.

2- the Speaker of the Iraqi Council of Representatives/ being in this capacity.

3- the Prime Minister/ Being in this capacity.

First: The Abstract of the Request:

Nassar Zagher Al-Rubaie/being in this capacity, requesting the issuance of the state order, through his agents, with their regulation dated 16/8/2022, for which the legal fee was met on the same date and recorded in the number (25/federal/state order/2022) submitted to the Federal Supreme Court, to issue an urgent state order, for filing a lawsuit in the number (188/federal/2022) before this court in which the ruling is requested to dissolve the Council of Representatives for its fifth session and oblige the President of the Republic in addition to his job to set a date for the holding of early legislative elections

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Under the provisions of Article (64) of the Constitution for the reasons detailed in the petition, which includes: (suspension of the work of the Council of Representatives until the resolution of the aforementioned lawsuit) for the reasons referred to in the request, the conclusion of which lies (reference to the lawsuit numbered (188/Federal/2022) filed by the applicant for the issuance of the state order in addition to his job, in which he requests the dissolution of the Council of Representatives for its fifth session and obliges the President of the Republic in addition to his job to set a date for the holding of early legislative elections in accordance with the provisions of Article (64) of the Constitution of the Republic of Iraq of 2005 for the reasons detailed in the petition, which was built on the Council of Representatives exceeding the constitutional periods that are of public order and may not be violated, Therefore, the breach and failure of the ICR to perform its functions is subject to dissolution, since the continuation of the work of the Council of Representatives with its illegitimacy leads to the illegality of the laws and decisions issued by it, and cannot be remedied in the event of a ruling in the aforementioned case in accordance with the requests contained therein, and in order to avoid unconstitutional consequences, we request the esteemed court to issue a state order to suspend the work of the Council of Representatives until the aforementioned case is resolved). Therefore, in accordance with the provisions of Article 93 of the Constitution of the Republic of Iraq of 2005, Articles 151 and 152 of the Code of Civil Procedure No. 83 of 1969, as amended, and Article 39 of the Bylaw of the Federal Supreme Court No. 1 of 2022, the application for the issuance of an urgent state order was submitted in accordance with the detail referred to above.

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Second: The decision:

Upon scrutiny and deliberation from the Federal Supreme Court, it was found that the applicant for the issuance of the state order / being in this capacity, due to his filing of the lawsuit in the number (188/Federal/2022) before this court, requested by its regulation dated 16/8/2022, the issuance of an urgent state order, which includes: (Suspension of the work of the Council of Representatives until the resolution of the aforementioned lawsuit), under which the ruling dissolves the Council of Representatives for its fifth session and obliges the President of the Republic / being in this capacity set a date for the holding of early legislative elections in accordance with the provisions of Article (64) of the Constitution of the Republic of Iraq for 2005 for the reasons detailed in the 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 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, as amended to the extent commensurate with the nature and specificity of the constitutional case, based on the provisions of Article (39) of the Bylaw of the Federal Supreme Court referred to above, which stipulates that "the Court may consider applications for summary justice and orders on petitions in accordance with the provisions stipulated in the Code of Civil Procedure No. (83) of 1969

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as amended or any other law that replaces it" and in the sense of Article (36) thereof, which stipulates that "the decisions of the Court are conclusive and binding on all authorities and persons and shall not accept an appeal by any means." Appeal...) Based on the foregoing, the issuance of a state order by the Federal Supreme Court is governed only by the controls and conditions to be met for its issuance referred to in the Code of Procedure, for the conclusiveness of the decisions issued by this Court and their non-subjection to the methods of appeal, which lies in the submission of a request in two copies including facts, substantiations and documents, the availability of the status of urgency, and the non-entry into the original of the right and its decision, and since the scrutiny of the request for the issuance of the state order by this court has proved the lack of urgency in it nor the state of extreme 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 on the constitutional lawsuit filed before this court in the number (188/Federal/2022) under which the ruling to dissolve the House of Representatives for its session is demanded. Fifth, obliging the President of the Republic, in addition to his office, to set a date for the holding of early legislative elections under the provisions of Article (64) of the Constitution of the Republic of Iraq of 2005 for the reasons detailed in the petition, and this is contrary to the established judicial norms in the constitutional districts of Arab and foreign countries, and to the stability of the Iraqi judiciary in both its constitutional and ordinary parts and the contents of the well-established judicial applications in this field based on the provisions of the Constitution and the laws in force, which are based on the realization of the right and the achievement of justice and fairness

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away from tendencies, whims, arbitrariness, and flattery. There is no blame for what has been said or done so the decision on the request of the applicant for the issuance of the state order must be rejected for two reasons: first: it is the absence of urgency, and 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 case before this court in the number (188/Federal/2022), according to the detail referred to above. In view of the foregoing, the Federal Supreme Court decided to reject the request of the applicant for the issuance of the state order Nassar Zaghir Al-Rubaie / being in this capacity which includes (suspension of the work of the House of Representatives until the resolution of the case in the number (188/Federal/2022) demanding the ruling to dissolve the Council of Representatives for its fifth session and oblige the President of the Republic / being in this capacity to set a date for the holding of early legislative elections following the provisions of Article (64) of the Constitution of the Republic of Iraq of 2005 for the reasons detailed in the petition. The decision has been issued unanimously, according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (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/Sufur/1444 Hijri coinciding 7/September/2022 AD.

Signature of
The president
Jasem Mohammad Abbood

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