

Republic of Iraq  
Federal Supreme Court  
Ref. 30/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 11/2/2024 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:1. Baseem Khazal  
Khashan/Member of the Council of Representatives.  
2.Laith Mustafah Hamoud Al- Dulaimi.

Who Requested to Issue the State Order Against: Head of the Council of Representatives/ being in this capacity.

**The Request:**

The two Applicants for the issuance of the state order, to the Federal Supreme Court, the statement of claim dated 21/1/2024, for which the legal fee was collected the next day and registered in the number (30/Federal/2024) The claimant is required to rule on the obligation against whom the state order is required to issue a parliamentary order that includes (the implementation of the decision issued by the Federal Supreme Court in number(9 Federal/2023) and reveals the invalidity of the membership of the representative Ahmed Ismail Al-Mashhadani, It corrects the violations that resulted from its membership, and obliges to stop the payment of salaries and allowances and recover the money that was disbursed in violation of the Constitution and the law, and prevents

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him from attending the meetings of the Council), they also demanded the issuance of an urgent state order that includes:( Oblige the person against whom the state order is required to prevent Ahmed Ismail Al-Mashhadani from attending the sessions of the Council to participate in the election of the Speaker of the Council and influence its outcome), Until the aforementioned lawsuit is resolved, for the reasons referred to in detail in the lawsuit petition, the conclusion of which lies in the following:

((The person required to issue the state order against him was issued Parliamentary Order No. (323) on 30/11/2023, In implementation of the decision of this court No. (9/Federal/2023) which includes considering the membership of the representative (Laith Mustafa Hamoud Al-Dulaimi) terminated from the date of issuance of the decision, which included the ruling to terminate it on 14/11/2023 after ruling the invalidity and cancellation of Parliamentary Order No. (5) of 2023, The consideration of the membership of the representative (Laith Mustafa Hammoud) expired as of this date means the continuation of his membership during the period preceding the date of its termination, and therefore the membership of the representative (Ahmed Ismail Al-Mashhadani) who replaced him based on Parliamentary Order No. (5) is invalid, As well as taking the constitutional oath on 18/1/2023 instead of the representative (Laith Al-Dulaimi), whose membership did not expire until 14/11/2023, According to the decision of this court and the parliamentary order No. (323), which is evidence of the knowledge of the person required to issue the state order against him / being in this capacity to invalidate the membership of the representative (Ahmed Ismail Al-Mashhadani) in addition to the termination of the membership of the representative (Laith Al-Dulaimi), the decision of this court No. (9/Federal/2023) included the ruling terminating the membership of the

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representative (Muhammad Rikan Al-Halbousi) the person who is required to issue the state order against him / being in this capacity adhered to the decision and issued his parliamentary order No. (308) on 24/11/2023, Including considering the membership of the representative (Muhammad Rikan Al-Halbousi) expired as of 14/11/2023, and the Board of Commissioners opened a letter No. (13083) on 11/20/2023, to determine his replacement deputy, the Judicial Authority for Elections indicated in its decision No. (57/Judicial Commission for Elections/2023) that the replacement must be in accordance with item (first) of Article (14) of the Law on Elections of the Council of Representatives, Governorate Councils and Districts No. (12) of 2018, which may not work any text contrary to its provisions in accordance with Article (52) thereof, and accordingly the Board of Commissioners issued its decision No. (2) for the extraordinary record No. (6), which included the replacement of the candidate (Burhan Nasser Mohammed) in place of the outgoing the representative (Mohammed Rikan Halbousi) because he has the highest votes in his list in the same governorate, however, the violations against whom the state order is required to be issued / being in this capacity may be informed of his failure to issue a parliamentary order to terminate the membership of the representative (Ahmed Ismail Al-Mashhadani) in implementation of the decision of this court, which canceled Parliamentary Order No. (5) of 2023, on which the replacement of the representative (Laith Mustafa Hammoud) was based on the losing candidate (Ahmed Ismail Al-Mashhadani), the person required to issue the state order against him/ being in this capacity also failed to stop the payment of salaries and allowances to the aforementioned deputy)) and after reviewing the request and making its scrutinies, the court issued the following decision:

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### **The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicants for the issuance of the state order, due to their filing of the lawsuit No. (30/Federal/2024) before this court, requested under their regulations dated 21/1/2024 to issue an urgent state order, including: (Oblige the person who is required to issue a state order against him to prevent Ahmed Ismail Al-Mashhadani from attending the sessions of the Council of Representatives to participate in the election of the Speaker of the Council and influence its outcome), until the aforementioned lawsuit is resolved, for the reasons detailed in its petition , the Federal Supreme Court finds that the issuance of an urgent state order is constructive on an independent or implicit request in the constitutional lawsuits filed before it that 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, 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, 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 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 that replaces it) and in accordance with Article (36) thereof, which stipulates that (the decisions of the court are final and binding on all authorities and persons and shall not be subject to appeal by any means of appeal..), on the basis of the foregoing, the

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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 subject to the methods of appeal, which lies in submitting a request in two copies including the facts, evidence and documents, and the availability of urgency, and not to enter the original right and decide on it, and since the audit of the request for the issuance of the state order from this court has proven the lack of urgency nor the state of 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 lawsuit filed before this court in the number (30/federal/2024) under which the judgment is required to oblige the person required to issue a state order against him to issue a parliamentary order that includes:

((Implementation of the decision issued by the Federal Supreme Court No. (9/Federal/2023) revealing the invalidity of the membership of representative Ahmed Ismail Al-Mashhadani, correcting the violations that resulted from his membership, obliging him to stop the payment of salaries and allowances and recover the funds that were disbursed in violation of the Constitution and the law, and preventing him from attending the sessions of the Council)), for the reasons referred to in detail in its petition, and that this contradicts the judicial customs established 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, whims, arbitrariness and flattery, there is no blame for the blame for what was

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really said or done, thus, the decision on the request of the applicant to issue the state order, the duty to be rejected for two reasons: the first: is the absence of urgency and the state of necessity that requires its issuance, and the second: that the decision on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court in the number (30/Federal/2024), in accordance with the above-mentioned detail, and for the foregoing, the Federal Supreme Court decided to reject the application submitted by (1. Bassem Khazal Khashan, member of the Council of Representatives. 2. Laith Mustafa Hamoud Al-Dulaimi) to issue an urgent state order. 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 the year 2005, and Article (5/2<sup>nd</sup>) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021. The decision has been made clear on 30/Rajab/1445 Hijri Corresponding to 11/2/2024 AD.

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

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