

Republic of Iraq
Federal Supreme Court
Ref. 33 / federal /state order/2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 29/11/2022 headed by Judge Jassim Mohammed Abood and membership of Judges, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, Khalef Ahmed Rajab, Ayoob Abbas Salih, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Applicant of issuing the State Order: Salam Hadi Khadhim/ the Resignee Representative from the membership of the ICR in the fifth parliamentary cycle/ his agent the barrister Shawkat Sami Al-Samarie.

Who requested to issue the State Order against: Speaker of the ICR/ being in this capacity.

First: The Request Abstract

The applicant for issuing the state order, through his representative, requested his regulation dated 14/11/2022, for which the legal fee was collected on the same date and registered in the number (33/federal/state order/2022) submitted to the Federal Supreme Court, to issue an urgent state order, for filing the lawsuit No. (255/federal/2022) before this court under which it is claimed ((ruling on the unconstitutionality of the parliamentary order No. (105) issued by the person against whom the state order is requested in addition to his job on 16/6/2022, which terminated the membership of the applicant for issuing the state order on 12/6/2022 and annulment and nullification of all its effects)), for the reasons detailed in the petition, it includes: (suspending the application of the parliamentary order No. (105) on 16/6/2022, which ordered the

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acceptance of the resignation of the applicant for issuing the state order, until the aforementioned lawsuit is resolved) for the reasons referred to in the request, the conclusion of which lies as follows (Further to the constitutional, legal and objective facts stated in the lawsuit petition No. (255/Federal/2022) related to the existence of a constitutional and legal violation that would prejudice constitutional rights and freedoms and the supreme interest of the country, and the importance of the subject matter of the lawsuit and its impact on societal peace and security, whereas the request to issue the state order against him / being in this capacity, aims soon to consider requests to replace the resigned members, including the applicant for the issuance of the state order, as indicated in the attached document and based on the response of the applicant for the issuance of the state order against him / in addition to his job on the request of the applicant to issue the state order regarding the revocation of the resignation, referred to in paragraph (3) thereof specifically), 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 for the issuance of an urgent state order was submitted in accordance with the aforementioned details.

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The Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to filing lawsuit No. (255/Federal/2022) before this court, requested in its regulation dated 14/11/2022, the issuance of an urgent state order, which includes: (suspending the application of the parliamentary order No. (105) on 16/6/2022, which ruled to accept the resignation of the applicant for issuing the state order, until the aforementioned lawsuit is resolved), for the reasons detailed in the request, and the Federal Supreme Court finds that 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. 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 (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) 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 ...", 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

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referred to in the Code of Civil Procedure, because of the finality of the decisions issued by this court and not subject to the methods of appeal, which consist in applying two copies containing the facts, grounds, 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 a state order by this court has proven that there is no urgency in it or a case The absolute necessity that necessitates 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. (255/Federal/2022) under which (ruling on the unconstitutionality of the parliamentary order No. (105) issued by the person against whom the state order is requested to be issued, in addition to his job on 16/6/2022, which ordered the termination of the membership of the applicant for issuing the state order on 12/6/2022, and invalidating it and invalidating all its effects), for the reasons detailed in the lawsuit petition, and that this contradicts with customs The stable judiciary in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary settled on in both its constitutional and ordinary parts and what was 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 what was really issued in words or deeds, and thus deciding on the applicant's request to issue the state order must be rejected for two reasons: The first: it is the absence of urgency in it, 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.

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(255/Federal/2022), In accordance with the details referred to above, and in view of the foregoing, the Federal Supreme Court decided to reject the application. The decision has been made unanimously according to the provisions of article (94) of the Republic of Iraq Constitution for 2005 and the 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 4/Jumada Al-Awla/1444 Hijri coinciding 29/November/2022 AD.

Signature of
The president
Jasem Mohammad Abbood