

Republic of Iraq
Federal Supreme Court
Ref. 4 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 18/1/2023 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: Jaafar Mohammed Wannan –
Head of Trustees Board in the Iraqi Media Network/
being in this capacity.

Who Requested to Issue the State Order Against: The Prime Minister/
being in this capacity.

First: Abstract of the Request

The applicant for issuing the state order submitted to the Federal Supreme Court, its regulation dated 9/1/2023, for which the legal fee was collected on the same date and registered in the number (4/Federal/2023) under which it is claimed, ((the judgment to cancel the decision included in the letter of the Prime Minister's Office No. (3086/2300725) on 8/1/2023, addressed to (Iraqi Media Network - Executive Director) entitled (exemption) indicated therein (1- Although the Iraqi Media Network Law No. (26) of 2015 allowed the aforementioned Council to terminate the service of the head of the network before the end of The duration of his term, except that if one of

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the reasons stipulated in paragraph (3rd) of Article (14) of the law in question is available. 2- In view of the absence of the decision from one of the reasons mentioned in paragraph (1) above, according to the priorities available to us, the termination order is not supported by the law and is not enforced, so the Prime Minister directed you to continue your duties in accordance with the law), 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 a ruling to terminate the assignment of (Nabil Jassim Mohammed) as head of the Iraqi Media Network, He also requested, by virtue of his petition, the issuance of an urgent state order (to suspend the implementation of the decision contained in the aforementioned letter of the Prime Minister's Office due to the existence of an urgent situation necessitated by the necessity of conducting business within the network)), until the case is resolved, for the reasons detailed in the petition, the conclusion of which lies as follows: ((Based on the powers granted to the Board of Trustees of the Iraqi Media Network under the provisions of the Iraqi Media Law No. (26) of 2015, as amended by No. (63) of 2017, Resolution No. (Mim.Alif/1/19) was issued on 8/1/2023, which is associated with objective, administrative, and professional reasons, and its content is to terminate the assignment of the person in charge of heading the network (Nabil Jassim Mohammed), who was previously assigned by the Board of Trustees under Resolution No. (Mim.Alif/1/424) on 5/7/2020 after the Board implemented its powers stipulated in the law. The Council of Ministers No. (3086/2300725) on 8/1/2023, which includes canceling the decision of the Board of Trustees and keeping Nabil Jassim Mohammed as head of the network, under the pretext of the lack of reasons for terminating the assignment, while the Council had reasons amounting to (28) reasons attached to the decision to terminate the assignment, and in light

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of this, the letter of the Prime Minister's Office exceeded the powers granted to the Board of Trustees under the provisions of the Network Law mentioned in (Article 1 / 8th) and (1st / 13th), which confirmed the independence of the Board of Trustees and its responsibility for formulating public policies in the network, and that the network is linked to the House of Representatives based on Article (2) of the Network Law in force, in addition to that the letter of the Prime Minister's Office in question contradicts Articles (10/2nd) and (11/4th) and (12/1st) of the Law, which confirmed that among the tasks of the Board of Trustees is to select the head of the network, and oblige the Board of Trustees to inform the public opinion of its decisions, and that the President of the Network is subject in his performance to the oversight of the Board of Trustees, and it is not the authority of the Prime Minister's Office to direct the cancellation of the decision on behalf of the competent administrative judiciary, and that the letter of the Prime Minister's Office in question represents a violation of the Constitution in its article (108) and interference with the work of an independent body under the provisions of Law No. (26) of 2015 as amended)), 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, a request was submitted to issue an urgent state order in accordance with the aforementioned details.

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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. (4/Federal/2023) before this court, requested according to its regulations dated 9/1/2023 to issue an urgent state order, which includes: ((Suspension of the implementation of the decision contained in the letter of the Prime Minister's Office No. (3086/2300725) on 8/1/2023, addressed to (Iraqi Media Network - Executive Director) entitled (exemption) indicated in it (1- Although the Iraqi Media Network Law No. (26) of 2015 allowed the said Council to terminate the service of The head of the network before the end of his term of office, except if one of the reasons stipulated in item (third) of Article (14) of the law in question is available. 2- In view of the absence of the decision from one of the reasons mentioned in paragraph (1) above, according to the priorities available to us, the termination order is not supported by law and does not apply it, so the Prime Minister directed you to continue your duties following the law), because there is an urgent situation necessitated by the need to conduct business within the network until the resolution of the aforementioned case)), 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 Implicitly in the constitutional cases filed before it, it was not addressed, nor was it 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 referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and to the extent commensurate

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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 replacing it) and in accordance with Article (36) thereof, which stipulates that (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 Code of Civil Procedure, because of the finality of the decisions issued by this court and not being subject to the methods of appeal, which consist in applying two copies containing 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 a state order by this court has proven that it is not urgent. If absolutely necessary to issue it, In addition to the foregoing, 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 in number (4/Federal/2023) demanding (the ruling to cancel the decision contained in the aforementioned letter of the Prime Minister's Office, on the basis of its violation of the provisions of the Constitution of the Republic of Iraq of 2005 and the laws in force, and the ruling to terminate the assignment of (Nabil Jassim Mohammed) as head of the Iraqi Media Network), for the reasons referred to in detail in the petition, 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 constitutional and ordinary

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parts and what was included in the well-established judicial applications in this area 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 in words or deeds, and thus the decision on the applicant's request to issue the order the duty to refuse for two reasons: First: it is the absence of urgency, 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. (4/Federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the request of the applicant for issuing the state order, Jaafar Muhammad Wannan, which includes (suspending the implementation of the decision included in the letter of the Prime Minister's Office No. 3086/2300725 on 8/1/2023), until the aforementioned lawsuit is resolved. 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 2005 and article (5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. It has been edited on the session dated 25/Jamada Al-Akhira/1444 Hijri coinciding 18/January/2023 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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