

Republic of Iraq
Federal Supreme Court
Ref. 4/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 12/3/2024 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, Dyar Mohammed Ali, and Munther Ibrahim Hussain who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: the barrister Azad Abdel Hameed Ahmed.

Who Requested to Issue the State Order Against:

1. Head of the Iraqi Council of Representatives / being in this capacity.
2. Prime Minister of the Federal Government/ being in this capacity.
3. Prime Minister of the Kurdistan Regional Government / being in this capacity.

Abstract of the Request:

The applicant for issuing the state order submitted to the Federal Supreme Court his list dated 27/2/2024, for which the legal fee was collected on the same date and registered in the number (4/federal/state order/2024) according to which an urgent state order is required to oblige ((the state order is required to be issued against him (the first) to implement Article (13/7th) of the Federal Budget Law of the Republic of Iraq for the years (2023-2024-2025) No. (13) of 2023, and to oblige the person required to issue the state order against him (the second) to pay the financial dues to the Kurdistan Region in accordance with the aforementioned budget law. Mention until it is amended and Article (12/2nd/Jim) thereof is implemented, and the obligation to issue a state

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order against him (3rd) to apply Article (12/2nd/Alif, Beh) of the same law)), until the lawsuit filed before this court is resolved with the number (69/Federal/2024) under which it is claimed ((Obliging a provision to implement the articles (1, 11, 12, 13) of the Federal Budget Law for the years (2023-2024-2025) No. (13) of 2023)), For the reasons detailed in the regulation, the conclusion of which lies in: The aforementioned budget law included in Article (13/7th) thereof, that in the event of any difference in views between the federal government and the Kurdistan Regional Government regarding the rights, obligations and mechanisms contained in the provisions of this law, a committee shall be formed from both parties to consider the outstanding problems to submit and resolve recommendations within (30) days from the date of their formation, and in the event that the dissolution is not possible for the Council of Representatives, to take the necessary decision, whereas the outstanding disputes between the Federal Government and the Kurdistan Regional Government have reached a stage where it is impossible to resolve, and that the Iraqi Council of Representatives has not taken any decision to resolve them or step towards resolving them since the date of the issuance of the budget law until now, and that obliging it to issue a decision in this regard enhances the strength of the Council of Representatives in the actual application of the principle of (separation of powers) stipulated in Article (47) of the Constitution, which requires the application of the aforementioned article and the disbursement of the share of financial dues to the Kurdistan Region according to the Budget Law, until it is amended and the draft amendment to the General Budget Law is sent from the Presidency of the Council of Ministers to the Council of Representatives for the purpose of approving and voting on it to resolve the outstanding differences between the federal government and the region as far as the

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rights and duties of the two governments are concerned, and that article 12/2nd/Jim of the budget law stipulates that ((The Federal Ministry of Finance shall compensate the Kurdistan Regional Government for the cost of producing and transporting the quantities of oil produced in the region received from the Federal Ministry of Oil. In accordance with paragraphs (Alif and Beh) of this item, provided that the cost of production and transportation shall be calculated at the same rate of the cost of producing and transporting a barrel of oil in the Federal Ministry of Oil multiplied by the number of barrels received in accordance with the provisions of this item)), the resolution of the outstanding disputes between the Federal Republic of Iraq and the State of Turkey would open the flow of oil of the Kurdistan Region in accordance with the specified quantity stipulated in Article (1-Beh) of the aforementioned budget law through the pipeline between the Republic of Iraq - Kurdistan Region and through the Turkish port of Ceyhan after the decision issued by the arbitration tribunal of the International Chamber of Commerce in Paris, in which the Federal Republic of Iraq was a plaintiff in the lawsuit against the State of Turkey, for violating the provisions of the Iraqi-Turkish pipeline agreement. signed in 1973, which led to the cessation of the export of Kurdistan Region's oil through the Turkish port of Ceyhan since 25/3/2023, Article (12/2nd/Alif) of the Budget Law stipulates that (the Kurdistan Regional Government, in coordination with the Federal Ministry of Oil, is obligated to ship crude oil produced from fields located in the region to the warehouses of the Oil Marketing Company - SOMO - in the Turkish port of Ceyhan with no less than 400 (four hundred thousand barrels per day...) As for Article (12/2nd/Beh) thereof, it stipulates that ((in the event that export is not possible through the Turkish port of Ceyhan or any other official port determined by the Ministry of Oil)). After reviewing

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the application and completing its scrutinies, the court issued the following decision:

The Decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit No. (69/Federal/2024) before this court, requested, according to his regulation dated 27/2/2024, to issue an urgent state order that includes ((obliging the person required to issue the state order against him the first (Head of the Council of Representatives / being in this capacity) to implement Article (13/7th) of the Federal Budget Law of the Republic of Iraq for the years (2023-2024-2025) No. (13) of 2023. And oblige the person who is required to issue the second state order against him (the Prime Minister of the Federal Government / being in this capacity) to pay the financial dues to the Kurdistan Region in accordance with the aforementioned budget law until it is amended and Article (12/2nd/Jim) thereof is implemented, and oblige the third state order (the Prime Minister of the Kurdistan Regional Government / in addition to his job) to apply Article (12/2nd/Alif, Beh) of the same law)) until the lawsuit filed before this court is resolved in the number (69/federal/2024), for the reasons referred to therein, The Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in 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, and to the

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extent commensurate with the nature and privacy of the constitutional lawsuit, based on the provisions of Article (39) of the Internal Regulations of the Federal Supreme Court referred to above, which stipulates that (the court may consider In 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 stipulated that (the court's decisions are final and binding on all authorities and persons and do not accept appeal by any means of appeal...), On the basis of 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, due to the finality of the decisions issued by this court and not being subject to the methods of appeal, which consist in submitting an application in two copies containing facts, grounds and documents, and the availability of urgency. Whereas the scrutiny of the application for the issuance of the state order from this court has proved the lack of availability in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court in the number (69/Federal/2024) under which the claimant((Obliging by virtue of the implementation of Articles (1, 11, 12, 13) of the Federal Budget Law of the Republic of Iraq for the fiscal years (2023-2024-2025) No. (13) of 2023)), for the reasons detailed in the petition,this is contrary to the established judicial customs in the constitutional districts of Arab and foreign countries, and with what has been settled by the Iraqi judiciary, both constitutional and ordinary, and with the well-established judicial applications in this area on the basis of the provisions of the Constitution and the laws in force, based on the realization of the right and the achievement of justice and

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fairness away from tendencies, whims, arbitrariness and flattery. There is no blame for the blame for what was really issued in terms of words or deeds, and thus the decision on the request of the applicant to issue the state order, must be rejected for two reasons:

The first: is the absence of urgency in it, and the absence of the necessity that requires its issuance, and the second: that deciding on it means entering into the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (69/Federal/2024), in accordance with the above-mentioned detail, and in view of the above, the Federal Supreme Court decided to reject the request for the issuance of the state order submitted by lawyer Azad Abdul Hameed Ahmed. 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 (5/2nd) 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 1/Ramadan/1445 A.H. corresponding to 12/3/2024 A.D.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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