

Republic of Iraq
Federal Supreme Court
Ref. 6 / federal / state order / 2022



Kurdish text

The Federal Supreme Court (F S C) has been convened on 23/2/2022 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Hayder Jaber Abid, 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 Requestor of issuing the State Order: Shihab Ahmed Abdulla Al-Nuaimi – his agent Barrister Hatim Kareem Khadhim. Whom requested to issue the State Order against the Speaker of the ICR/ being in this capacity.

First: the Brief of the Request

Shihab Ahmed Abdullah Al-Nuaimi, through his agent and his draft dated 16 February 2022, requested from the Federal Supreme Court to issue an urgent state order, which includes: (Suspension of the procedures of the work of the Council of Representatives numbered (4) for the year 2022 in the number (1/9/Dal.Kha/Sin10/4) on 8 February 2022 concerning the opening of nominations for the post of President of the Republic from Wednesday, 9 February 2022, and for (3) three days, in accordance with the provisions of articles (151-152) of the Civil Procedures Law No. (83) of 1969 amended, in order to avoid a constitutional violation for the reasons referred to in detail in the aforementioned draft are legal until the case before him is resolved before this court in the number (25/Federal/2022), for which the legal fee was met on 9 February 2022, to challenge the constitutionality of the decision to be suspended.

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Second: the Decision

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for the state order filed the case in number (25/federal/2022) before this court, to challenge the constitutionality of the Council of Representatives' decision numbered (4) of 2022 Under its draft of 16 February 2022, for which the legal fee was met on the same date, and registered in the number (6/federal/state order/2022), an urgent state order, including: (Suspension of all procedures arising from the Council of Representatives Resolution (4) of 2022), until the aforementioned case is resolved, for the reasons detailed, the Federal Supreme Court finds that issuing an urgent state order at the request of an independent or implicit in the constitutional proceedings before it has not been addressed or addressed in the Law of the Federal Supreme Court No. (30) For the year 2005 amended or the Bylaw for the conduct of the proceedings of the Federal Supreme Court No. (1) of 2005, thus subject to the provisions referred to in articles (151 and 152) of the Civil Procedures Law Number (83) for 1969 amended, to the extent that it is commensurate with the nature and specificity of the constitutional proceedings, based on the provisions of article (19) of the aforementioned Bylaw, which stipulate (the provisions of the Civil Procedures Law No. (83) of 1969 and the Evidence Law No. (83) apply (107) for 1979, while it did not contain a special provision in the Law of the Federal Supreme Court and in this system) and within the meaning of article (17) of it, which stipulates (the rulings and decisions issued by the court as a matter of fact and does not accept any method of challenge ...) Based on the foregoing, the issuance of a state order by the Federal Supreme Court is governed only by the

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controls and conditions to be met for its issuance referred to in the Civil Procedures Law, to the merits of the decisions of this Court and its non-submission to the methods of challenge, which lie in the application of two copies containing facts, grounds and documents, and the availability of urgency. Failure to enter into and decide on the origin of the right, and since the scrutiny of the request for the issuance of the state order by this court has proved that there is no urgency in it, which must be issued, because of the lack of extreme necessity, in particular the reopening of the nomination for the post of President of the Republic, after the expiry of the constitutional term specified for his election provided for in article (72/2nd/Beh) of the Constitution of the Republic of Iraq 2005, his non-election was based on the decision of the Council of Representatives numbered (4) for 2022, starting on Wednesday, 9 February 2022) and for (3) three days in accordance with the provisions of article (2) of the Provisions of the Nomination for President Republic Law No. (8) of 2012, which stipulated that (nomination for the post of President of the Republic shall be announced within three days of the date of the election of the Speaker of the House of Representatives and his two deputies in its new legislative session) to be elected within 30 days of the date of the first session of the Council of Representatives based on the provisions of article (72/2nd/Beh) of the Aforementioned Constitution of the Republic of Iraq. Since the time limit for announcing the nomination for the post of President of the Republic in accordance with the decision of the Council of Representatives numbered (4) for 2022, starting on Wednesday, (9/2/2022) and for (3) three days It ended before the application was decided, which means that there is no urgency in it, in addition to the above, the response to its content means entering into the origin of the right and

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giving a prior opinion in challenging the constitutionality of the decision of the Aforementioned Council of Representatives based on the case filed in this court in number (25/Federal/2022) for which the legal fee was met on 9 February 2022, and this is contrary to the established judicial customs in the constitutional districts of Arab and foreign states and with what the Iraqi judiciary has established in its constitutional and ordinary aspects and what is contained in the established judicial applications in this area based on the provisions of the Constitution and the laws in force, which 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 words or actions that have been issued, so deciding on the request for the issuance of the state order has the duty to respond for two reasons: the first is the lack of urgency in it, and the second is that the decision on it means entering into the origin of the right and giving a prior opinion on the constitutionality of the decision of the Council of Representatives above. Accordingly, the FSC decided to reject the request and the decision has been made unanimously binding, and decisive for all powers according to the provisions of article (94) of the Republic of Iraq for 2005 and the article (5/2nd) of the FSC's Law No. (30) for 2005 which was amended by the Law No. (25) for 2021. The decision has been edited in the session dated 21/Rajab/1443 Hijri coinciding 23/February/2022 AD.

**Signature of
The president**

Jasem Mohammad Abboud

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