

In the name of God most Gracious most Merciful

Republic of Iraq
Federal Supreme Court
Ref. 7/federal/custodian order/2022



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 14. 3 .2022 headed by Judge Jasem Mohammad Abod and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, Diyar Muhammad Ali who are authorized to judge in the name of the people, they made the following decision:

The Requester for the Custodian Order issuing: Lawyer Amir Karim Al - Daami / his attorney, Muhammad Ali.

The Requested for the Custodian Order to issuing (agents him): Director of the National Oil Company/ being in his capacity.

First - The Request:

Lawyer Amir Karim Al-Daami requested the FSC, by its regulations dated 16/2/2022, for which the legal fee was collected on the same date and recorded No. (7/federal/custodian order/2022) to issue an urgent custodian order pending the resolution of the lawsuit filed by before him before this Court No. (29/federal/2022), for which the legal fee was collected on 16/2/2022, to challenge the unconstitutionality of all orders and contracts taken by the director of the National Oil Company, it includes: (stopping commercial and contractual transactions (buying and selling) and all administrative transactions (appointing and addressing) with internal and external bodies, due to the danger that these transactions carry with their sovereign financial future burdens towards private and

public interests), as the Council of Representatives has enacted the law of the National Oil Company, The legislation of that law is of importance and danger, because this company represents from an economic and financial point of view through the seriousness of the contracts to be concluded in the coming period, but which have already begun to be concluded, and on the basis of the foregoing, a request to issue an urgent custodian order.

Second - The Decision:

After scrutiny and deliberation by the FSC found that the applicant for the issuance of the state order filed the case numbered (29/federal/2022), for which the legal fee was collected on 16/2/2022, to challenge the constitutionality of all orders and contracts taken by the director of the National Oil Company before this court, and requested according to its dated regulation. 16/2/2022, which was registered in issue (7/federal/ custodian order/2022), Issuance of an urgent custodian order, including: (stopping commercial and contractual transactions (buying and selling) and all administrative transactions (appointing and addressing) with internal and external bodies, as these transactions carry their sovereign financial future burdens from the danger towards private and public interests), until the issue of the aforementioned lawsuit, is resolved. The FSC finds that the issuance of an urgent custodian order based on an independent or implicit request in the constitutional cases brought before it has not been addressed. It was not dealt with in the FSC Law No. (30) of 2005 as amended, nor in the bylaw of workflow procedures in the FSC No. (1) of 2005, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedures Law No. (83) for the amended year 1969, to the extent that is commensurate with the nature and specificity of the constitutional case, based on the provisions of Article (19) of the aforementioned internal system, which stipulates that (the provisions of Civil Procedures Law No. (83) of 1969 and Evidence Law

No. (107) of 1979 shall apply to what is not mentioned in it. A special text in the FSC Law and in this system) and in the context of Article (17) thereof, which stipulates (the judgments and decisions issued by the Court are final and not accept any method of appeal...), on the basis of the foregoing, the issuance of a custodian order by the FSC is governed only by the terms and conditions that must be met for its issuance referred to in the Civil Procedures Law, due to the finality of the decisions issued by this court and not being subject to the methods of appeal, which lies in submitting an application in two copies including facts, evidence and documents, and the availability of the characteristic of urgency, not entering into the origin of the right and deciding on it. And since the examination of the request for the issuance of the state order by this court has proven the lack of urgency in it, which must be available for its issuance, due to the absence of the case of extreme necessity that requires it, in addition to the foregoing, responding to its content means entering into the origin of the right and giving a prior opinion of the constitutionality of all orders and the contracts taken by the director of the National Oil Company, which were challenged under the aforementioned lawsuit 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, 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 right and the achievement of justice and fairness away from tendencies, whims, arbitrariness and flattery there is no blame on the blamer for what was truly issued in terms of saying or doing, and thus, deciding on the request of the person requesting the issuance of the custodian order is obligatory to respond for two reasons:

The First is that there is no urgency in it, and The Second is that deciding on it means entering into the origin of the right and giving a prior opinion on the constitutionality of all orders and contracts taken by the director of the National Oil Company, in order to challenge their constitutionality before this court in accordance with the aforementioned detail, and for the foregoing, the court decided The FSC rejected the request, and the decision was issued in agreement, definitively and binding on all authorities, based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/2nd) of the FSC Law No. (30) for the year 2005 amended by Law No. (25) of 2021 and issued in the session dated 10/Shab'an/1443 coinciding with 14/March/2022.

Signature of

The president

Jasem Mohammad Abod