

Republic of Iraq
Federal Supreme Court
Ref. 207 / federal / state order / 2021



Kurdish text

The Federal Supreme Court (F.S.C.) was convened on 28.12.2021 headed by the Judge Jasem Mohammad Abbood 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, and Diyar Muhammad Ali whom are authorized to judge in the name of the people, they made the following decision:

The applicants for the issuance of the state order:

President of the Federation of Iraqi Chambers of Commerce / in addition to his post - his attorney Wael Jassem Kazem.

The state order is against:

Speaker of the Parliament of the Kurdistan Region of Iraq / in addition to his post.

The brief of the request:

the President of the Federation of Iraqi Chambers of Commerce / in addition to his post, requesting the issuance of the state order, through his attorney, Wael Jassem Kazem, according to the list submitted to the Federal Supreme Court and registered with it in No. (207/Federal/2021) dated 12/16/2021, in which the fee was paid on the same date, the issuance of a state order to stop the implementation of the contested law No. (13) of 2021 Law of the Second Amendment to the Law of the Federation of Chambers of Commerce and Industry in the Kurdistan Region - Iraq No. 14 of

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1993 on 7/9/2021 ratified by the President of the Region published In the Kurdistan Gazette issue No. (272) on 10/20/2021), to specify a period not exceeding thirty days for its implementation and the transfer of records from the Chambers of Commerce to the Ministry of Trade and Industry in the region, which may cause loss and damage to records and their contents, waste of public money and loss of merchants' rights, and for the reasons referred to in detail in the regulation that focused on challenging the unconstitutionality of Article (4) of the law in question, on the basis of which a request was made to issue a state order to stop its implementation.

The decision:

Upon examination and deliberation from the Federal Supreme Court, it was found that the applicant for the issuance of the state order, requested in the case petition No. (207/Federal/2021), to issue a state order to stop the implementation of the contested law (Law No. 13 of 2021 Law of the Second Amendment to the Law of the Federation of Chambers of Commerce and Industry in Kurdistan Region - Iraq No. 14 for the year 1993 on 7/9/2021 approved by the President of the Region published in the Kurdistan Gazette No. (272) on 10/20/2021), to specify a period not exceeding thirty days for its implementation and transfer of records from the Chambers of Commerce to The Ministry of Trade and Industry in the region, which may cause loss and damage to records and their contents, waste of public money and loss of merchants' rights for the reasons indicated in detail in the regulations, and the Federal Supreme Court finds that its competence and authority to issue state orders based on

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requests submitted to it or lawsuits filed before it, has not been addressed. It was not addressed in the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 nor the bylaw of the Federal Supreme Court No. (1) of 2005, and thus the authority of the court in issuing state orders is subject to the provisions referred to in Articles (151 and 152) of the amended Civil Procedure Law No. 83 of 1969, and to the extent that is commensurate with the nature and privacy of the constitutional case, based on the provisions of Article (19) of the bylaw of the Federal Supreme court referred to above, which stipulated that (the provisions of the Civil Procedures Law No. (83) of 1969 and the Evidence Law No. 107 of 1979 shall apply to what is not specifically stipulated in the Federal Supreme Court Law and in this bylaw) and in the meaning of Article (17) From it, which stipulated (the judgments and decisions issued by the court are final and do not accept any means of appeal...), and on the basis of 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 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 a request in two copies including the facts, evidence and documents, and the availability of the capacity of urgency, and not entering into the origin of the right and deciding on it, and since the audit of the request by this court has created deciding on the absence of the urgency that must be present for the issuance of the state order, just as the issuance of a state order in response to the request means entering into the origin of the right and deciding on it, especially since the applicant for the issuance of the state order filed before this court the case No. (207/federal/2021), which The legal fee for it was

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collected on 12/16/2021, to claim the unconstitutionality of Article (4) of Law No. (13) of 2021 (Law of the Second Amendment to the Law of the Federation of Chambers of Commerce and Industry in the Kurdistan Region - Iraq No. (14) of 1993), 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 the right and the achievement of justice and fairness away from tendencies, whims, arbitrariness and flattery So, there is no blame for the blameworthy for what was really issued in terms of saying or doing, and thus, deciding on the request is obligatory to reject it for two reasons: the first: it is the absence of the character of urgency in it, and the second: lies that deciding on it means entering into the origin of the right to give a prior opinion in the case filed by the applicant for the issuance of the state order, before this court, No. (207/ Federal /2021), according to the details referred to above, the Federal Supreme Court decided to reject the request for the issuance of the state order, the decision was issued by agreement, final and binding to all authorities in accordance with the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) of 2021 on Jumada Al-Ula 23/1443 AH corresponding to 28/ 12/2021 AD.

Signature of
The president

*Jasem Mohammad
Abbood*

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