

Republic of Iraq
Federal Supreme Court
Ref. 213 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 3/9/2023 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: Wasfi Asi Hussein – his agent the barrister Anmar Abdul Jabbar Abbas.

Who Requested to Issue the State Order Against:

- 1- The Prime Minister/ being in this capacity.
- 2- Head of the Kurdistan Democratic Party/ being in this capacity.

The Abstract of the Request

The applicant for issuing the state order submitted to this court, through the mediation of his representative, the statement of claim dated 3/9/2023, for which the legal fee was collected on the same date and registered in the number (213/Federal/2023), filed against the defendants the Iraqi Prime Minister and the President of the Kurdistan Democratic Party / being in their capacity, according to which the order issued by the Prime Minister in his capacity as Commander-in-Chief of the Armed Forces and by the Deputy Commander of Joint Operations was challenged by telegram No. (843 of 2023) sent to the Kirkuk Operations Command (Planning) No. (3/3/640 dated 25/8/2023) and

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included in paragraph (2) thereof: The headquarters of the Kirkuk Operations Command and its units, the headquarters of the infantry division/11 Command, and the orders and the types and services affiliated with them will move from their current headquarters to the new places as of 600 hours on 1/9/2023 to evacuate and hand over the current Kirkuk Operations Command headquarters Free of vacancies and imposing security and stability. The plaintiff asked this court to oblige the first defendant to cancel the aforementioned joint operations order for the reasons mentioned in his petition, including that the second defendant was previously usurping the land because he had previously laid his hand on the land and built a headquarters on it and occupied it without right and without any legal justification, as the land belongs to the Ministry of Finance under the real estate deed No. (13/11 Province 9 Korka - Freehold) and after the liberation of Kirkuk province from the desecration of Daesh terrorist gangs, with the strength and vigor of the heroes of the security forces The land was occupied by the Kirkuk operations as federal forces, and according to paragraph (13) of the government program, all Kurdish parties and others have the right to exercise their activities and constitutional political effectiveness, In Nineveh, Kirkuk, Diyala and Salah al-Din, and the evacuation of the headquarters of parties that have been occupied by others, as well as its violation of the Political Parties Law No. (36) of 2015, Article (28/Beh), which stipulates (specifying the address of the party's headquarters and its sub-headquarters, and that none of them is within places of worship or the headquarters of any public, charitable, religious, educational, union, military or judicial institution), he also requested the issuance of an urgent state order not to hand over the headquarters to the second defendant of the Kurdistan Democratic Party and to stop the procedures in the Joint Operations Book No. (843 of 2023) according to the Kirkuk

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Operations Command (Planning) No. (3/3/640 dated 25/8/2023), based on Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, and until the aforementioned lawsuit is resolved.

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. (213/Federal/2023) before this court, requested the issuance of an urgent state order (not to hand over the headquarters to the second defendant, the Kurdistan Democratic Party, and to stop the procedures in the joint operations book No. (843 of 2023) according to the Kirkuk Operations Command letter (planning) No. (3/3/640 dated 25/8/2023) and until the lawsuit filed by him to challenge the aforementioned order contained in paragraph (2) thereof is resolved (the headquarters of Kirkuk Operations Command and its units, the headquarters of the infantry division/11 infantry division, Amriyat, Al-Sanouf and its affiliated services to move from their current headquarters to the new places as of 600 hours on 1/9/2023 for the purpose of evacuating the current Kirkuk Operations Command headquarters and handing it over free of vacancies and imposing security and stability), for the reasons detailed in the lawsuit petition, and the Federal Supreme Court finds, based on the preamble of the Iraqi Constitution of 2005, which is an important part of the Constitution, which stipulates the following: The Constitution was enacted in response to the call of the homeland and citizens, and in response to the call of religious leaders and our national forces and the insistence of our great authorities, leaders and politicians, and amid global support, the Iraqi people marched for the first time in their history to the ballot boxes

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in millions, men and women, young and old on the thirtieth of January of the year two thousand and five AD, recalling the pain of sectarian repression by the tyrannical junta, and inspired by the bereavement of the martyrs of Iraq, Shiites and Sunnis, Arabs, Kurds and Turkmen, and from all components of the people, and inspired by the darkness of the invasion of the holy cities and the south in the Shabania uprising, and burned by the fire of the mass graves, marshes, Dujail and others, and interrogating the torments of national repression in the massacres of Halabja, Barzan, Anfal and the Faili Kurds, and recalling the tragedies of the Turkmen in Bashir and the suffering of the people of the western region, like the rest of the regions of Iraq, from the liquidation of its leaders, symbols and sheikhs, the displacement of its competencies and the drying up of its intellectual and cultural sources, so the Iraqi people sought hand in hand, shoulder to shoulder, to make a new Iraq, the Iraq of the future, without sectarian strife, nor racism, nor regional complex, nor discrimination, nor exclusion. Takfir and terrorism have not discouraged the Iraqi people from moving forward to build the rule of law, strengthen national unity, and pursue peaceful transfers of power. Compliance with this Constitution preserves the unity of Iraq's people, territory, and sovereignty. Based on the provisions of Article (1) of the Constitution, which stipulates (that the Republic of Iraq is a single, independent federal state with full sovereignty, the system of government is republican, representative (parliamentary) democratic, and this Constitution guarantees the unity of Iraq)), and what is stated in Article (3) thereof, which stipulates that (Iraq is a country of nationalities, religions, and sects...) and what is stated in Article (7/1st) of the Constitution, which stipulates (any entity or approach that adopts racism, terrorism, takfir or sectarian cleansing, or incites, prepares, glorify, promotes or justifies it, especially the Saddamist Baath in Iraq

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and its symbols, ...) is prohibited. Based on Article 15 thereof, which stipulates that "Everyone has the right to life, security and liberty..." Based on the provisions of Article (4) of the Political Parties Law No. (36) of 2015, which guaranteed all citizens. Men and women have the right to participate in the establishment of political parties or belonging to them or withdraw from them and may not discriminate against any citizen or exposure to him or accountability or prejudice to his constitutional rights because of their affiliation to a party established following the law and must be established political parties based on citizenship and in a manner that does not conflict with the provisions of the Constitution and may not be established party based on racism or terrorism or atonement or sectarian, ethnic or national intolerance based on the provisions of Article (5) of the same law and all A party established by law with legal and legal personality and exercises its activities accordingly following the provisions of Article (18) of the Law. Accordingly, since Article (109) of the Constitution obliges all federal authorities to preserve the unity, safety, independence, sovereignty, and federal democratic system of Iraq, and since maintaining the security of Kirkuk Governorate in a way that ensures the preservation of the lives of citizens in it is the responsibility of all federal authorities, so this requires exerting all efforts to perpetuate the historical coexistence between Kurds, Arabs, and Turkmens in Kirkuk and to give priority to the interest of Iraq and Iraqis with all their nationalities over partisan and national interests, especially since Kirkuk Governorate has a proud history. It is the sons of the homeland, which is represented by national unity and peaceful coexistence, and therefore preserving all of this is more important than any other step. The Federal Supreme Court decided to suspend the implementation of the order of the Prime Minister, Commander-in-Chief of the Armed Forces, which

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includes vacating the current headquarters of Kirkuk Operations Command and handing it over free of concerns and procedures resulting from it until the case is resolved (213/Federal/2023) final and binding for all authorities with the majority. The decision has been edited on the session dated 17/Sufur/1445 Hijri coinciding with 3/September/2023 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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