

Republic of Iraq
Federal Supreme Court
Ref. 335 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 25/12/2023 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: Basim khazaal Khishan

Who Requested to Issue the State Order Against: 1. Head of the Council of Representatives/being in this capacity.
2. President of the Republic/ being in this capacity.

The Abstract of the Request:

The applicant for the issuance of the state order submitted to this court the statement of claim dated 25/12/2023, for which the legal fee was collected on the same date, and was registered in the number (335/Federal/2023) according to which the ruling on the unconstitutionality of Article (3) of the First Amendment Law of the Independent High Electoral Commission Law No. (31) of 2019 is claimed, and amend it to stipulate (the entry into force of the law from the date of its publication in the Official Gazette in accordance with the provisions of the Constitution), He also demanded the issuance of an urgent state order that includes ((obliging the required issuance of the state order against him the second President of the Republic / being in this capacity to publish the law - the subject of the challenge of

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unconstitutionality in the Iraqi Gazette, in order not to leave his failure to publish a legal vacuum confuses the provincial council elections, Until the aforementioned lawsuit is resolved, for the reasons contained in the aforementioned regulation, including that the law is considered effective from the date of its issuance on the laws enacted by the Council of Representatives, and is considered ratified after fifteen days from the date of receipt)). After reviewing the contents of the request and completing the checks, 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. (335/Federal/2023) before this court, requested, according to his regulation dated 25/12/2023, to issue an urgent state order, including: ((Obliging the President of the Republic to issue the second state order against him / adding him to his job to publish the law of the first amendment to the Independent High Electoral Commission Law No. (31) of 2019 - subject to challenge - of unconstitutionality in the Iraqi Gazette)), Until the aforementioned lawsuit is resolved, for the reasons detailed in the lawsuit petition, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional lawsuits 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 internal regulations of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, Thus, it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedure Law No. (83) for the year as amended, which is

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commensurate with the nature and privacy of the constitutional lawsuit, Based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court referred to above, which stipulates that ((The Court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Accompaniment Law No. (83) of 1969 as amended or any other law that replaces it)) In terms of Article (36) thereof, which stipulates that (the decisions of the court are final and binding on all authorities and persons and shall not accept appeal by any means of appeal...), On the basis of the foregoing, the issuance of an urgent state order from the Federal Supreme Court is governed only by the controls and conditions that must be met for its issuance referred to in the Civil Procedure Law, for the finality of the decisions issued by this court and not 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 urgency, and not to enter into the origin of the right and decide on it, Whereas the examination of the application for the issuance of the state order by this court has proved that it is not of urgency or the state of necessity that requires its issuance, In addition to the above, responding to its content means entering the origin of the right and giving a prior opinion on the constitutiona lawsuit filed before this court No. (335/Federal/2023) under which the ruling is demanded ((the unconstitutionality of Article (3) of the First Amendment Law of the Independent High Electoral Commission Law No. (31) of 2019)) for the reasons referred to in detail in its petition and that this contradicts the judicial norms established in the constitutional districts of Arab and foreign countries and with what was settled by the Iraqi judiciary in both its constitutional and ordinary parts, and what is included in the well-established judicial applications in this field based on the provisions of

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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, There is no blame for the appropriate in what was really issued 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: it is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (335/Federal/2023), according to the detail referred to above, with regard to the above, the Federal Supreme Court decided to reject the request of the applicant to issue the state order (in the name of Khazal Khashan - member of the Council of Representatives). The decision has been issued unanimously, final and binding according to the provisions of Article (94) of the Constitution of the Republic of Iraq No. (25) of 2021, and it has been made clear on the session dated 11/Jumada al-Akhira/1445 AH corresponding to 25/December/2023 AD

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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