

Republic of Iraq  
Federal Supreme Court  
Ref. 3 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/3/2023 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: Anwar Dawrweesh Alyass/  
Deputy Director of Kalar Anwar for General Trading/  
being in this capacity – his agent the barrister Hussein Hameed Talab.

Who Requested to Issue the State Order Against:  
The Speaker of the ICR/ being in this capacity.

### **First: Abstract of the Request**

The applicant for issuing the state order submitted to this court, through his agent Hussein Hamid, his regulation dated 5/3/2023, for which the legal fee was collected on the same date and registered with the number (3/ federal/ state order/2023), due to his filing a lawsuit before this court No. (45/ federal/2023) to challenge the constitutionality of Article (14) of the Municipal Imports Law No. (1) of 2023, which prohibited the import, manufacture and sale of alcoholic beverages and imposed a fine on those who violate this, so he requested Issue an urgent state order to suspend the entry into force of that article, until the resolution of the

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aforementioned case, the text requested to suspend its entry into force violated the provisions of the Constitution of the Republic of Iraq of 2005 and other laws in force and caused serious damage to it and losses estimated at ten million dollars, because it imported goods from outside Iraq worth approximately ten million dollars, and that it intends to bring it into Iraq through the Tarbil border crossing under the attached import permits, but the text of the article required to suspend its entry into force prevented him from bringing his imported goods into Iraq.

**Second: the decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, requested, according to its regulations dated 5/3/2023, to issue an urgent state order, which includes: (Suspension of the entry into force of Article (14) of the Municipal Imports Law No. (1) of 2023, which stipulated ((First: The import, manufacture and sale of alcoholic beverages of all kinds is prohibited. Second: Anyone who violates the provisions of item (first) of this article shall be punished by a fine of not less than (10,000,000) ten million dinars and not more than (25,000,000) twenty-five million dinars)), On the basis of violating the provisions of the Constitution of the Republic of Iraq of 2005 and other laws in force, until the resolution of the lawsuit numbered (45/Federal/2023) filed by him to challenge the text of the article to be suspended, for the reasons detailed in the request, and the Federal Supreme Court finds that the issuance of an urgent state order based on an independent request or implicit in the constitutional cases 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 Rules of Procedure of the Federal Supreme

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Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, and thus it is subject to the provisions referred to in Articles (151 and 152) of the Civil Procedures Law No. (83) of 1969, as amended, and to the extent commensurate with the nature and specificity of the constitutional case, based on the provisions of Article (39) of the Rules of Procedure of the Federal Supreme Court referred to above, which stipulated (the Court may consider requests for summary judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedure Law No. 83 of 1969, as amended, or any other law replacing it), in accordance with Article (36) thereof, which stipulates that "court decisions are final and binding on all authorities and persons and cannot be appealed by any means of appeal..." On the basis of the foregoing, the issuance of an urgent 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 Procedure Law No. (83) of 1969, as amended, , because of the finality of the decisions issued by this court and not being subject to the methods of appeal, which lie in submitting an application in two copies that includes the facts, grounds and documents, and the availability of urgency, and not to enter into the origin of the right and decide on it, and since the scrutiny of the request for the issuance of the state order by this court has proven that there is no urgency in it or the state of extreme necessity that requires its issuance, in addition to the foregoing, responding to its content means entering into the origin of the right and giving a prior opinion on the constitutional lawsuit filed before this court Issue (45/Federal/2023), and that this contradicts the established judicial norms in the constitutional districts of Arab and foreign countries and with what the Iraqi judiciary has settled on in both its constitutional and ordinary parts and what is included in the well-

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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, there is no blame for what was really issued in words or deeds, and thus the decision on the applicant's request to issue the state order, must be rejected for two reasons: The first: is the absence of urgency in it, and the second: lies in the fact that deciding on it means entering into the origin of the right and giving a prior opinion on the case, and for the foregoing, the Federal Supreme Court decided to reject the request. The decision has been issued unanimously, final, and binding according to the provisions of article (94) of the Constitution of the Republic of Iraq for 2005 and article (5/2<sup>nd</sup>) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. It has been edited on the session dated 20/Shaabab/1444 Hijri coinciding 13/March/2023 AD.

**Judge**  
**Jasem Mohammad Abboud**  
**President of the Federal Supreme Court**

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