

Republic of Iraq  
Federal Supreme Court  
Ref. 49 / 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: Mustafa Jabbar Sanad/ his agent the barrister Ahmed Saeed Mousa.

Who Requested to Issue the State Order Against:  
The Prime Minister/ being in this capacity.

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

The applicant for issuing the state order submitted to the Federal Supreme Court, the statement of claim dated 7/3/2023, for which the legal fee was collected on 9/3/2023 and registered in the number (49/Federal/2023) under which it is claimed, ((ruling invalidating the two decisions issued by the person against whom the state order is required, the first: No. (333) of 2022, which includes (the Ministry of Finance disbursed four hundred billion dinars to pay the dues of the Kurdistan region), the second: its annex No. (23027) of 2023, which includes (the payment of the amount indicated in Resolution (333) of 2022 shall be a loan from the Iraqi Trade Bank to the regional government)), on the basis of their violation of the law and the decision

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issued by the Federal Supreme Court No. (170/Federal/2022), in which he also demanded the issuance of an urgent state order to suspend the implementation of the two decisions issued by the aforementioned state order against whom the state order is required, until the case is resolved, for the following reasons: The two decisions under appeal are contrary to the following: 1- Article (80/3<sup>rd</sup>) of the Constitution, which specified the power of the Council of Ministers to issue decisions with the aim of implementing the law, but the defendant did not rely on any legal text. 2- The text of Article (11) of the Federal Budget Law No. (23) of 2021, which confirmed the payment by the federal government of the region's dues after the region has implemented its obligations contained in the aforementioned article of the law, which stipulates ((e- The federal government is committed to paying the dues of the Kurdistan region contained in this law and the tables attached to it after the region implements paragraphs (Alif, Beh, Jim, and Dal) of this article)) which includes the commitment of the regional government to deliver oil imports at a rate of (250) barrels per day to the federal government at the price of a company Somo. 3- The two challenged decisions violated the decision of the Federal Supreme Court No. (170/Federal/2022), which ruled that the decisions issued by the defendant regarding the payment of the dues of the Kurdistan Region were invalid and that the decisions of the Federal Supreme Court were final and binding on all authorities, but the defendant insisted on issuing decisions contrary to the law and the court's decision. 4- In addition to the objection and reservation of the Ministry of Finance to the two decisions in question as they are contrary to the law, it objected and expressed its reservation to the implementation of these decisions as they are contrary to the law and the decisions of the Federal Supreme Court as stated in its letter No. (23311) on 19/12/2022).

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**Second: the decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the applicant for issuing the state order, due to his filing of lawsuit No. (49/Federal/2023) before this court, requested, according to its regulations dated 7/3/2023, to issue an urgent state order, which includes: ((Suspension of the implementation of the two decisions issued by the person against whom the state order is required, the first: No. (333) of 2022, which includes (the Ministry of Finance disbursed four hundred billion dinars to pay the dues of the Kurdistan region), and the second: Its annex No. (23027) of 2023, which includes (the payment of the amount indicated in Resolution (333) of 2022 shall be a loan from the Iraqi Trade Bank to the regional government)), until the case is resolved, for the reasons detailed in the 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 cases filed before it has not been addressed, nor has it been addressed in the Federal Supreme Court Law No. (30) of 2005 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, and thus it is subject to the aforementioned provisions Articles (151 and 152) of the Civil Procedure Law No. (83) of 1969, as amended, 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 stipulates that (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

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it) and in accordance with Article (36) thereof, which stipulates that (the Court's decisions are final and binding on all authorities and persons and shall not be subject to appeal in any way from Methods of appeal...), based on 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 Code of Civil Procedure, because of the finality of the decisions issued by this court and not being subject to the methods of appeal, which consist in applying two copies containing the facts, evidence, 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 issuing a state order by this court has proven that it is not urgent. If necessary issue it, in addition to the above, responding to its content means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court No. (49/Federal/2023) under which (ruling invalidating the two decisions issued by the person against whom the state order is required to be issued, the first: No. (333) of 2022, which includes (the Ministry of Finance disbursed four hundred billion dinars to pay the dues of the Kurdistan region), the second: annex No. (23027) of 2023, which includes (the payment of the amount indicated in Resolution (333) of 2022 shall be a loan from the Iraqi Trade Bank to the regional government), based on their violation of the provisions of the laws in force and the judgment issued by the Federal Supreme Court referred to above, for the reasons detailed in the lawsuit petition, this contradicts the established judicial norms in the constitutional districts of Arab and foreign countries, with what the Iraqi judiciary has settled on, both constitutional and ordinary, and what has been included in the well-established judicial applications in this area based on the provisions of the Constitution and the laws in force, which are based on the realization

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of the right and the achievement of justice and fairness away from tendencies, whims, arbitrariness, and flattery. The first is the absence of urgency, and the second: is that deciding on it means entering into the origin of the right and giving a prior opinion on the lawsuit filed before this court with the number (49/federal/2023), according to the aforementioned detail, and for the foregoing, the Federal Supreme Court decided to reject the request of the applicant for issuing the state order, Mustafa Jabbar Sanad. 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 with 13/March/2023 AD.

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

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