

Republic of Iraq
Federal Supreme Court
Ref. 5 / federal/state order /2023



Kurdish text

*The Federal Supreme Court (F S C) has been convened on 28/5/2023 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, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Requestor of Issuing the State Order: Uday Awad Khadhim – his agent the barrister Ayad Abdul Qadir.

Who Requested to Issue the State Order Against: Mayor of the Iraqi Central Bank/ being in this capacity.

First: Abstract of the Request

The applicant requesting the issuance of the state order, from this court through his agent, with his regulation dated (4/5/2023), for which the legal fee was collected on the same date and registered in the number (5/federal/state order/2023), to issue an urgent state order, for filing the lawsuit before this court No. (87/Federal/2023) claiming (ruling on the unconstitutionality of depositing the region's oil export revenues in an account outside the control of the Central Bank of Iraq)), on the basis that this violates the provisions of the Constitution of the Republic of Iraq for the year 2005 in Articles (14, 27/2nd, 111, 112 and 115) thereof, including the demand to stop (the procedures for depositing the revenues of oil sales of the Kurdistan Region in a bank account outside the control of the Central Bank of Iraq), until the aforementioned lawsuit is

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resolved, on the basis that such export According to his aforementioned description, when implemented, it will cause damage to public funds.

Second: 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 lawsuit No. (87/Federal/2023) before the Federal Supreme Court, requested, by his regulation dated (4/5/2023), to issue an urgent state order, includes a demand to stop (procedures for depositing revenues from oil sales of the Kurdistan Region in a bank account outside the control of the Central Bank of Iraq), until the resolution of the lawsuit filed before this court in the number (87/federal/2023) to challenge the decision to deposit the region's oil export revenues in an account outside the control of the Central Bank of Iraq, on the basis that this violates the provisions of the Constitution of the Republic of Iraq for the year 2005 in Articles (14, 27/second, 111, 112 and 115) thereof, 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 a law Federal Supreme Court 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) 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

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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 it) and following Article (36). Which stipulates that: (The decisions of the court are final and binding on all authorities and persons and do not accept an appeal by any means of appeal ...) based on 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 and referred to in the Civil Procedure Law, due to the finality of the decisions issued by this court, it is not subject to the methods of appeal, which lie in submitting a request in two copies containing the facts, grounds, and documents, and the availability of urgency, and not entering into the origin of the right and deciding on it, whereas the scrutiny of the request for the issuance of the state order from this court has proven that it is not urgent, nor the state of extreme necessity that requires its issuance, in addition to the above, 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 in the number (87/Federal/2023) under which the ruling is demanded (the unconstitutionality of depositing the region's oil export revenues in an account outside the control of the Central Bank of Iraq)), on the basis that this is contrary to the provisions of the Constitution of the Republic of Iraq of 2005 in articles 14, 27/2nd, 111, 112, and 115 thereof for the reasons detailed in the petition, 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 the well-established judicial applications in this field following the provisions of the Constitution and the laws in force, based on the realization of the right and the

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achievement of justice and fairness away from tendencies, whims, arbitrariness, and flattery, there is no blame for what was really said or done, thus, the decision on the applicant's request to issue the state order must be rejected for two reasons: the first: it is the lack of urgency in it, and the second: it lies in the fact that deciding on it means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court No. (87/Federal/2023), according to the aforementioned detail, 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 (5/2nd) 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 8/Dhul Qaeda/1444 Hijri coinciding with 28/May/2023 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

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