

Republic of Iraq
Federal Supreme Court
Ref. 62 / federal/state order /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 28/3/2023 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, 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: the Representative Ala'a Kamil Jabbar Al-Rikabi.

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 the Federal Supreme Court the statement of claim dated 22/3/2023, for which the legal fee was collected on 23/3/2023 and registered with the number (62/federal/2023), according to which the demand is to annul the session of the Council of Representatives numbered (15) and cancel its decisions for violating the controls stipulated in Articles (24, 29 and 37) of the Rules of Procedure of the Council of Representatives No. (1) of 2022, for the reasons referred to in the lawsuit petition, the conclusion of which is as follows: The time of the meeting officially announced and fixed in the agenda is eleven in the morning on Sunday, March 19, 2023, and it did not take place on time and was not officially postponed

saady

Republic of Iraq
Federal Supreme Court
Ref. 62 / federal/state order /2023



Kurdish text

to another time as stipulated in the aforementioned rules of procedure, the session was called to be held at one o'clock after midnight, and there was not enough time to announce the session again before it was held, and the quorum was not completed until exactly four thirty in the morning on March 20, 2023, and the session was not broadcast in the government media, and it was also requested to issue an urgent state order to stop the effects of the aforementioned session, until the case is resolved.

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 the lawsuit No. (62/Federal/2023) before this court, requested under his regulation dated 22/3/2023, to issue an urgent state order, including: (Stopping the effects of the session of the Council of Representatives numbered 15), until the case 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 implicitly in the constitutional cases filed before it has not been done Addressed as not addressed in Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021, nor the Bylaw 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 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 Bylaw of the Federal Supreme Court referred to above, which stipulates that ((The Court may consider requests for summary

saady

Republic of Iraq
Federal Supreme Court
Ref. 62 / federal/state order /2023



Kurdish text

judgment and orders on petitions in accordance with the provisions stipulated in the Civil Procedures Law No. (83) of 1969 as amended or any other law that replaces it)) and in terms of Article (36) thereof, which stipulates that (the decisions of the Court are final and binding on all authorities and persons and do not accept appeal 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 Procedures Law, because the decisions issued by this court are final and not subject to the methods of appeal, which lies in submitting an application in two copies that includes facts, grounds and documents, and the availability of urgency, and not entering the origin of the right and deciding on it, and since the scrutiny of the request for issuing the state order by this court has proven that there is no urgency in it nor the state of extreme necessity that requires its issuance, in addition to the foregoing, responding to its content means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court No. (62/Federal/2023) under which the urgent state order is required to be issued, It includes: ((The annulment of the session of the Council of Representatives numbered (15) and the cancellation of its decisions for violating the controls stipulated in Articles (24, 29 and 37) of the Rules of Procedure of the Council of Representatives No. (1) of 2022)), until the case is resolved, for the reasons detailed in the lawsuit 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 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 the constitution The laws in force, which are based on the realization of the right and the achievement of justice and fairness

saady

Republic of Iraq
Federal Supreme Court
Ref. 62 / federal/state order /2023



Kurdish text

away from inclinations, whims, arbitrariness and flattery, there is no blame for the right to say or do, and thus the decision on the request of the applicant for the issuance of the state order, should be rejected for two reasons: the first: it is the absence of urgency in it, and the second: it lies that deciding on it means entering the origin of the right and giving a prior opinion on the lawsuit filed before this court No. (62/Federal/2023), according to the detail referred to above, and for the foregoing, the Federal Supreme Court decided to reject the request of the applicant for the issuance of the state order, Alaa Kamel Jabbar Al-Rikabi and 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 6/Ramadhan/1444 Hijri coinciding 28/March/2023 AD.

Judge
Jasem Mohammad Abboud
President of the Federal Supreme Court

saady