

Republic of Iraq  
Federal Supreme Court  
Ref. 6 / 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: Chairman of the Tourism Authority / being in this capacity - his agent senior legal counselor Abeer Youssef Mubarak.

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 the issuance of the state order, from this court, through the mediation of his agent, with his regulation dated (18/5/2023), for which the legal fee was collected on the same date, and registered in the number (6/federal/state order/2023), requested the issuance of an urgent state order that included the claim (suspending the application of the Municipal Imports Law No. (1) of 2023), until the lawsuit filed by him before this court is resolved in the number (40/federal/2023) consolidated with other lawsuits and became the number (35 and its units/federal/2023) under which the judgment to cancel Articles (12) is claimed. and 14) of Municipal Imports Law No. (1) of 2023 and the

*saady*

Republic of Iraq  
Federal Supreme Court  
Ref. 6 / federal/state order /2023



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cancellation of all provisions contained therein and in the annex to its fees related to the work of the Tourism Authority for the reasons stated in his lawsuit petition)), the applicant for the issuance of the state order relied on the fact that the legal articles that violate the provisions of the Constitution and whose constitutionality is contested have prejudice to his rights, in addition to his legal and financial capacity).

### **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 the lawsuit (40/Federal/2023) consolidated with other lawsuits, and became the number (35 and its units/federal/2023), requested with his regulation dated (18/5/2023) to issue an urgent state order, it includes the demand (to suspend the application of the Municipal Imports Law No. (1) of 2023) until the aforementioned lawsuit is resolved for the reasons detailed in it, 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 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 Procedure Law No. (83) of 1969, as amended, and to the extent commensurate with the nature and privacy of the constitutional case, based on the provisions of Article (39) of the Internal Regulations of the Federal Supreme Court referred to above, which stipulates that (the court may consider requests for summary judgment and orders on petitions in

*saady*

Republic of Iraq  
Federal Supreme Court  
Ref. 6 / federal/state order /2023



Kurdish text

accordance with the provisions stipulated in the Civil Procedure Law No. 83 of 1969, as amended, or any other law that replaces it) and in accordance with Article 36 thereof, which stipulates that "court decisions are final and binding on all authorities and persons and cannot be challenged by any means of appeal...), on the basis of 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, referred to in the Civil Procedure Law, because the decisions issued by this court are final, and they are not subject to the methods of appeal, which lie in submitting an application in two copies containing facts, grounds, and documents, and the availability of urgency, and not entering into the origin of the right and deciding on it, and since the examination of the request for issuing the state order from this court has proven that it is not urgent, nor in the case of extreme necessity. Which 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 constitutional lawsuit filed before this court in the number (40/federal/2023) consolidated with other lawsuits and became the number (35 and its units / federal/2023) under which the judgment is required ((canceling Articles (12 and 14) of the Municipal Imports Law No. (1) of 2023 and canceling the texts contained in it all and its fees annex related to the work of the Tourism Authority)), on the basis that this violates the provisions of the Constitution of the Republic of Iraq of 2005 in articles (2/Beh, Jim, 13) thereof, and the provisions of other laws referred to in the petition, for the reasons detailed therein, and that this contradicts the judicial customs established in the constitutional districts of Arab and foreign countries, and with what the Iraqi judiciary has settled on, both constitutional and ordinary, and what is included in the established judicial applications in this field based on the provisions

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of the Constitution and the laws in force, based on the realization of the right and the achievement of justice, and fairness is far from tendencies, whims, arbitrariness and flattery, so there is no blame for what was really issued in terms 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 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 in the number (40/federal/2023) unified with other lawsuits and became in number (35 and its units/federal/2023), according to the aforementioned detail, and for the foregoing, the court decided Federal Supreme Court Rejection of Application. 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 2/Dhul Qaeda/1444 Hijri coinciding 22/May/2023 AD.

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

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