

Republic of Iraq  
Federal Supreme Court  
Ref. 8/ federal/state order /2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 8/1/2024 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: Mohammed Mahdi Ameen –  
Chairman of the Kirkukona Alliance/being in this capacity.

Who Requested to Issue the State Order Against: Chairman of the  
Board of Commissioners in the Independent High Electoral  
Commission / being in this capacity.

**The Abstract of the Request:**

The applicant for issuing the state order submitted to this court the list of lawsuit dated 7/1/2024, for which the legal fee was collected on the same date, and was registered in the number (8/federal/2024) under which the judgment is claimed (canceling the election results in Kirkuk governorate due to the failure of the person required to issue the state order against him / being in this capacity to audit the voter records in accordance with what is required by Article (13) of Law No. (4) of 2023, the Third Amendment Law to the Elections Law of the Council of Representatives, Governorate Councils and Districts No. (12) of 2018, and obliging the required to issue a state order against him/ being in this capacity to audit voter records based on the provisions of the aforementioned article), He also demanded the issuance of an urgent state order that includes :(obliging the required to issue a state order against him/ being in this capacity to suspend the ratification of the

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validity of the final results of the Kirkuk Provincial Council elections) until the aforementioned lawsuit is resolved. For the reasons detailed in the lawsuit petition, the conclusion of which lies in the following: (On 18/11/2023, provincial council elections were held throughout Iraq, including Kirkuk Governorate, based on the provisions of Article (5/A) of Law No. (4) of 2023 mentioned above, Whereas Article (13) thereof, concerning the elections of Kirkuk Governorate, stipulates that Article (35) of the law and its amendments in Law No. (14) of 2019 shall be repealed to be read as follows: First: The Independent High Electoral Commission, in coordination with the competent ministries (interior, health, justice, trade, planning) and a representative of each component of the Kirkuk social governorate from the members of the Council of Representatives, checks the voter records in the province on the following bases: A- Citizens registered in the 1957 census, with the exception of citizens of the Zab district and Sarkaran district, shall be included in the election register of the province of Kirkuk approved in the elections of the Council of Representatives or provincial councils. B- Returning deportees who have exceeded the fact-finding committee of Article (140) of the Constitution or who will skip its procedures in accordance with the applicable legal conditions and controls. C- Citizens living in Kirkuk whose residence is proven through the ration card before 2003, And that what is required to issue the state order against him and the ministerial committees did not complete the work entrusted to them in accordance with what was required by the aforementioned article before the date of the provincial council elections specified, and therefore the elections held in the province of Kirkuk, constituted a serious and significant violation of the work of the Independent High Electoral Commission and was considered a legal violation of the text of the aforementioned article, And affected

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the validity of the election results, which opened the door to challenge the validity of their results due to the manipulation of voters and falsification of their will, and that the voter records in Kirkuk, on which the electoral process depends, are the basis - the subject of the challenge, and therefore it is not possible to accept the validity of the election results produced by the electoral process without completing the audit of voter records and ensuring the achievement of societal peace), and after reviewing the court on what was stated in the aforementioned request, And conducting its audits, it issued the following decision:

### **The Decision:**

Upon scrutiny and deliberation by the Federal Court, it was found that the applicant for the issuance of the state order, due to his filing of the lawsuit No. (8/Federal/2024) before this court, requested, according to its regulations dated 7/1/2024, to issue an urgent state order. It includes: (obliging the person required to issue the state order against him / being in this capacity to suspend the ratification of the validity of the final results of the Kirkuk Provincial Council elections), until the aforementioned lawsuit is resolved, for the reasons detailed in the lawsuit petition, 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 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

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privacy of the constitutional lawsuit. 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 that replaces it) In terms of Article (36) thereof, which stipulates that (the decisions of the court are final and binding on all authorities and persons and shall 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 Procedure Law, for the finality of the decisions issued by this court, and not subject to the methods of appeal. Which lies in submitting a request in two copies, including the facts, evidence and documents, and the availability of urgency, and not to enter into the original right and decide on it, and since the audit of the request for the issuance of the state order from this court has proven the lack of urgency nor the state of necessity that requires its issuance, in addition to the above, responding to its content means entering the origin of the right and giving a prior opinion of the constitutional lawsuit filed before this court in the number (8/Federal/2024) under which the judgment is claimed((Canceling the election results in Kirkuk Governorate due to the failure of the person against whom the state order is issued/being in this capacity) to audit the voter records in Kirkuk Governorate due to the failure of the person against whom the state order is requested/being in this capacity, to scrutinize the voter records in accordance with the requirements of Article (13) of Law No. (4) of 2023, The Third Amendment Law to the Elections Law of the Council of Representatives, Governorate Councils and Districts No.

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(12) of 2018, and the obligation to issue a state order against him / being in this capacity to scrutinize voter records based on the provisions of the aforementioned article)), for the reasons referred to in detail in its petition, and that this contradicts with the judicial customs established in the constitutional districts of Arab and foreign countries, and with what was settled by the Iraqi judiciary in both constitutional and ordinary parts and what was included in the established judicial applications in this area 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 the appropriate in what was really issued 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: is the absence of urgency and the state of necessity that requires its issuance, and the second: that deciding on it means entering the origin of the right and giving a prior opinion of the lawsuit filed before this court No. (8/Federal/2024), according to the detail referred to above, and for the foregoing, the Federal Supreme Court decided to reject the request submitted by Muhammad Mahdi Amin, and the decision was issued by agreement based on the provisions of Article (94) of the Constitution of the Republic of Iraq for the year 2005 and Article (5/II) of the Federal Supreme Court Law No. (30) of 2005 As amended by Law No. (25) of 2021, final, binding and done in the session dated 25/Jumada Al-Akhira/ 1445AH corresponding to 8/January/2024 AD

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

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