

Republic of Iraq  
Federal Supreme Court  
Ref. 197 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 21/8/2023 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 Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Representative Uday Awad Khadhim – his agent, the barrister Ayad Abdul Qadir Mohammed Al-Jabiri.

The Defendant: Speaker of the ICR/ being in this capacity – his agents, the legal counselor Haytham Majid Salim, and the official jurist Saman Muhsin Ibrahim.

### **The Claim**

The plaintiff claimed through his agent that the defendant approved Article (12/2<sup>nd</sup>/Jim) of the Federal Budget Law of the Republic of Iraq No. (13) of 2023 for the fiscal years (2023, 2024, and 2025), which indicated that (the Federal Ministry of Finance shall compensate the Kurdistan Regional Government for the costs of production and transportation of the quantities of oil produced in the region received from the Federal Ministry of Oil following paragraphs (Alif) and (Beh) of this item, provided that the costs of production and transportation are calculated equal to the average cost of producing and transporting a barrel. Oil in the Federal Ministry of Oil multiplied by the number of barrels received following the provisions of this item) for violating the Constitution of the Republic of Iraq in Articles (111 - Oil and gas is the property of all the Iraqi people in all regions and governorates) and (112/1<sup>st</sup>- The federal government manages the oil and gas extracted from the existing fields with the governments of the producing regions and governorates...) Therefore, he took the initiative to challenge the said article before this court, requesting a ruling on its unconstitutionality and invalidation. The lawsuit was registered with this court at number (197/federal/2023), the legal

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Republic of Iraq  
Federal Supreme Court  
Ref. 197 / federal /2023



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fee was collected for it, and the defendant was informed of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and his agents answered the response regulation dated 20/8/2023 and requested to dismiss the lawsuit due to the lack of interest for the plaintiff, based on Article (20/first and second) of the court's internal regulations No. (1) of 2022. After completing the procedures required by the court's rules of procedure, a date was set for the consideration of the case without pleading in accordance with Article (21/3<sup>rd</sup>) thereof, and on the specified day, the court was formed and began to consider the case and checked the requests and grounds stated in the lawsuit petition and the defenses stated in the list of the defendant's agents, and where the court completed its checks, the end of the minutes has been made clear and the court issued the following decision:

**The decision:**

Upon scrutiny and deliberation by the Federal Supreme Court, it became clear that the plaintiff, Representative Uday Awad Kazim filed the lawsuit against the defendant, the Speaker of the Council of Representatives, in addition to his job to challenge the constitutionality of Article (12/2<sup>nd</sup>/Jim) of the Federal Budget Law of the Republic of Iraq No. (13) of 2023 for the fiscal years (2023, 2024, and 2025), which indicated that (the Federal Ministry of Finance shall compensate the Kurdistan Regional Government for the costs of production and transportation of oil quantities produced in the region received from the Federal Ministry of Oil following the two paragraphs (Alif) and (Beh) of this item, provided that the cost of production and transportation shall be calculated at the rate of the cost of producing and transporting a barrel of oil in the Federal Ministry of Oil multiplied by the number of barrels received following the provisions of this item) based on its violation of the Constitution of the Republic of Iraq in Articles (111 and 112) thereof, following the details referred to in the lawsuit petition, the Federal Supreme Court finds that the plaintiff's claim must be dismissed in form based on the provisions of Article (22) of the Court's Rules of Procedure No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulated that ((The challenge to the constitutionality of the Federal Budget Law or any text therein, shall be submitted by the authorities and bodies stipulated in Article (19)

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Federal Supreme Court  
Ref. 197 / federal /2023



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of this system, within a period not exceeding (30) thirty days from the date of its publication in the Official Gazette, and the procedures shall be applied to it. stipulated in Article (21) of this Law, and the court shall decide on the appeal within a period not exceeding thirty days from the date of its registration, unless otherwise necessary)), in terms of Article (19) thereof, which stipulates that ((any of the three federal authorities, ministries, and independent bodies, the Prime Minister of the region, non-affiliated entities and governors may request the (Federal Supreme Court) to rule on the constitutionality of a legal text or regulation, ...)) the plaintiff is not one of the persons mentioned in Article (19) who has the right to challenge the constitutionality of the Federal Budget Law or any provision therein and does not represent any of them, which requires the dismissal of the plaintiff's lawsuit in form and for the foregoing, the Federal Supreme Court decided to rule: dismissing the plaintiff's lawsuit and charging him fees, expenses and attorney's fees for the defendant's agents, in addition to his job, an amount of one hundred thousand dinars distributed in accordance with the law. The decision has been issued unanimously, according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2<sup>nd</sup>) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear on 4/Sufur/1445 Hijri coinciding with 21/August/2023 AD.

**Judge**

**Jassim Mohammed Abbood**

**President of the Federal Supreme Court**

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