

Republic of Iraq
Federal Supreme Court
Ref. 7 / federal /2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9/8/2023 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 Dyar Mohammed Ali who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Governor of Wasit/ being in this capacity – his agent the Senior Legal Counselor Mohammed Hammoudi Salamn.

The Defendants: 1- Minister of Finance/ being in this capacity – his agent, the official jurist Amir Abbas Qadir.

2- Minister of Oil/ being in this capacity – his agents, the official jurists, Saman Mohammed Hussein and Ahmed Jassim Mohammed.

The Claim

The plaintiff, through his agent, claimed that his client's department owed the defendants an amount estimated at (2000,000,000,000) two trillion Iraqi dinars, for the petrodollar dues allocated to Wasit Governorate under Article (44/8) of the Law of Governorates Not Organized in a Region No. (21) of 2008, as amended, and the following articles of the federal budget laws: Article (2/1st/Heh) of the 2016 budget, Article (2/1st/4/Dal/Heh) of the 2017 budget, Article (2/1st/5) of the 2018 budget, and Article (2/1st/5) of the 2019 budget, and Article (2/1st/4/Dal/Heh) of the 2021 budget, but the defendants refrain from paying the aforementioned dues to the plaintiff's department despite claiming them several times without legal justification, which led to

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damage to his department by depriving it of fixed financial dues under the law, so the plaintiff asked this court to oblige them to pay the amount claimed. The lawsuit was registered with this court in number (7/federal/2023) and the legal fee was collected for it, and the defendants were informed of its petition and documents in accordance with Article (21/ 1st and 2nd) of the internal regulations of the Federal Supreme Court No. (1) of 2022, and the first defendant's agent replied with the reply regulation dated 14/2/2023 and requested to dismiss the lawsuit due to the court's lack of jurisdiction to consider it, and that the plaintiff did not specify the constitutional articles that he claims violated due to the non-implementation of the budget laws that he is required to implement, which is implemented during one fiscal year based on Article (1/9th) of the Financial Management Law, and the budget laws - the subject of the challenge - and the Financial Management Law did not include anything to the effect that the undisbursed amounts to the governorates are a debt owed by the Ministry of Finance, determining what the provinces are entitled to in terms of petrodollars falls within the competence of the Ministry of Planning and is in return for projects to be implemented in the governorate concerned. No answer was received from the second defendant. Based on Article (21/3rd) of the Court's Rules of Procedure, a date was set for the consideration of the case without pleading, and on the appointed day, the court was formed and the case began to be considered, and due to the importance of conducting audits on its subject, the court decided to conduct the pleading in presence and notify the parties, so the plaintiff's agent attended as well as the first defendant's agent, and the second defendant attended the Minister of Oil, in addition to his job, his legal counsel Saman Muhammad Hussein, and submitted the response list dated 6/3/2023, which ((included the defense of the court's lack of jurisdiction

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to hear the lawsuit and the non-direction of litigation towards his client because the implementation of projects and the disbursement of the amounts allocated to them are within the competence of the Ministry of Planning and the Ministry of Finance, and that Article (2/1st/8) of the General Federal Budget Law No. (23) of 2021, which stipulated the establishment of petrodollar funds, has been canceled by virtue of Court Resolution No. (35) of 2021 and the request to dismiss the case)), after the court heard the statements of the parties' agents and reviewed the list of the second defendant, it decided to include (the Financial Audit Bureau and the Ministry of Planning) third persons in the lawsuit for the purpose of clarifying from them what is necessary to resolve it, so the first was attended by the senior legal consultant Shaima Iskandar Dagher, and the second was attended by the human rights employee Maha Sabih Sadiq, and after the court completed its clarification from them, it decided to remove them from the lawsuit, and since there is nothing left to be said, the end of the argument has been made clear, and the court issued the following decision:

The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff, the Governor of Wasit, in addition to his job, filed the lawsuit against the defendants, the Minister of Finance and the Minister of Oil, in addition to their functions, and requested a judgment obliging them to pay the amount of (2000,000,000,000) (two trillion) Iraqi dinars, for the petrodollar dues allocated to Wasit Governorate for the years (2016, 2017, 2018, 2019 and 2021). The court finds that the issue of petrodollar dues allocated to governorates under Article (44/8) of the Law of Governorates Not Organized in a Region has been

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addressed in Article (2/1st/5/Alif) of Law No. (13) of 2023 - The Federal General Budget of the Republic of Iraq for the fiscal years (2023, 2024 and 2025), which stipulates the following: ((5%) (five percent) of the revenues of crude oil (at the price specified in the general budget) produced in the region and the producing governorates, and (5%) (five percent) of Refined crude oil revenues in the region's refineries and governorates, And (5%) (five percent) of the revenues of natural gas produced in the region and the producing governorates, at the equivalent price of a barrel of oil based on the price specified in the general budget, provided that the region and the producing governorate choose to choose one of the revenues produced above and that an amount of (2,000,000,000) thousand dinars (two trillion dinars) is allocated, as projects to the region and the producing governorates out of the allocations referred to in item (1st/Alif) of Article (2) mentioned above, and the region and the governorate shall have the right to dispose and use not more than (50%) (fifty percent) of the allocations referred to above for the purpose of importing electrical energy or providing services to the region or governorate and cleaning them or treatment expenses for patients inside and outside Iraq or for current expenses according to the needs of the region or governorates, and the priority of spending shall be for the areas most affected by oil production and refinement, and for projects Protect the environment, through the required transfer procedure, provided that the accounting adjustments shall be made after being audited by the Federal Financial Supervision Bureau in the budget of the following year, including the dues of the governorate for previous years for which no amounts have been allocated and audited by the Federal Financial Audit Diwan)), and thus the subject matter of this lawsuit has been dealt with under the said article. Therefore, the Federal Supreme Court decided to dismiss the

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plaintiff's lawsuit against the Governor of Wasit / being in this capacity as it became useless, due to the issuance of the Federal Budget Law of the Republic of Iraq mentioned above and to burden him with fees and expenses and the amount of one hundred thousand dinars attorney fees of the defendants' agent distributed between them in accordance with the law. The decision has been issued unanimously, final, and binding for all authorities according to the provisions of articles (93 and 94) of the Constitution of the Republic of Iraq for 2005 and articles (4 and 5/2nd) of the FSC's law No. (30) for 2005 which was amended by law No. (25) for 2021. The decision has been made clear in the session dated 21/Muharram Al-Haram/1445 Hijri coinciding with 9/August/2023 AD.

Judge
Jassim Mohammed Abbood
President of the Federal Supreme Court

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