

Republic of Iraq
Federal Supreme Court
Ref. 227 / Federal / 2022



The Federal Supreme Court (F.S.C.) convened on 4.10.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, Diyar Muhammad Ali, and Monther Ebrahim Hussain who are authorized to judge in the name of the people, they made the following decision:

The requester: the minister of oil / in addition to his post.

The subject of the request: 1. Implementing the court's decision No. (49 unified with 83/federal/2022) issued on 21/9/2022 within one year.

2. a request to cancel the dissolved revolutionary command council decision No. (267) of 1987.

The Request:

This court received a letter from the Ministry of Oil, No. (waw./250 on 9/25/2022), which contained the following: the legislator had previously issued Law No. (11) of 1964, the law establishing the Iraqi National Oil Company, and since that time the company has started its work to achieve the foundations outlined in the law because of the expansion of the company's responsibilities in implementing the state's general oil policy, Law No. (123 of 1967) was legislated, and Iraq witnessed at that time the most movement in the extractive

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 227 / Federal / 2022



oil industry led by the company, and under Resolution No. (267 of 1987) regard the legal organization of the company by merging it with the Ministry's position and restructuring it into sub-companies affiliated with the ministry, and thus the company lost its financial and administrative independence granted to it under Law No. (123 of 1967) and this resulted in a decline in performance the situation continued as it is until after the political change of the regime in Iraq after 2003, when many ideas and drafted laws to discuss the re-establishment of the company until the issuance of Law No. (4) of 2018 the Law of the Iraqi National Oil Company. And that the court's decision No. (49 and its unified 83/Federal/2022) came as a surprise to the company, as it did not take into account the value of the damage resulting from the abolition of its legal existence and the amount of financial and administrative impact resulting from the implementation of this decision and the resulting imbalance in the country's oil economic credit to international companies which will reflect negatively on the Iraqi economy and will create unjustified investment and development losses for Iraq according to the detail contained in the book and based on Article (93) of the Constitution and Article (45) of Court Rules of Procedure No. (1) of 2022 and to protect the conditions, legal positions, and acquired rights of the company and its owned companies, the Minister of Oil asked this court to agree to the following:

A - That the procedures for canceling the establishment and liquidation of the company be completed within one year from the date of the Federal Court's

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 227 / Federal / 2022



issuance of its decision, as this requires the transfer of tasks, responsibilities, financial and commercial matters, and investment guarantees to the Ministry of Oil.

B- The achievements made by the company during the decades of the sixties, seventies, and eighties were and still are respected and appreciated in the international energy and oil centers and forums, and the court has the constitutional and legal authority to repeal laws and decisions that are not in line with the public interest and contradict the provisions of the constitution in force, as well as the ability to rationalize and correct the legal paths in the country in general, and the great confidence enjoyed by the Law of Establishing the Iraqi National Oil Company No. (123) of 1967 (the amended) and the economic stability that the company and the country have enjoyed since its issuance, and because Court decision No. (49) stipulated the abolition of paragraphs (2 and 3) of the decision Council of Ministers No. (109) of 2020 based on the fact that the current law cannot be implemented for business continuity and reducing the risks resulting from dissolving the company in question and keeping the oil industry as a center of confidence and a cornerstone with an important economic dimension for the Iraqi people in general and the Iraqi economy in particular, please to decide to cancel the dissolved Revolutionary Command Council Resolution No. (267 of 1987) and re-enforce law No. (123 of 1967)).

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 227 / Federal / 2022



The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it found that the letter of the ministry of oil No. (waw./250 on 25/9/2022) included two parts, first- to complete the procedures of annulling the establishment of the company and liquidizing it within one year from the date of issuing the court decision, and second, included a request to revoke the dissolved revolution command council decision No. (267) in 1987. This court finds that the decision was presented under the provision of article (19) of its bylaw No.(1) of 2022 which stated that (any of the federal authorities, ministries, independent committees, the prime minister of the region, offices not affiliated with a ministry, and governors may request the federal supreme court to decide the constitutionality of a legal text or regulation, that the request to be send to the court by a letter signed by the head of the concerned authority, the minister, the head of the independent committee, the prime minister of the region, the head of the party not affiliated with a ministry, or the governor, that the challenged text is related to the tasks of that body and caused dispute in its implementation), the jurisdiction of the court under this article is to decide the constitutionality of the legal text, and as what was stated in the letter of the ministry of oil didn't included deciding the constitutionality of the legal text, then it is out of the federal supreme court jurisdictions stipulated in article (93/1st) of the constitution and article (4/1st) of its law No.(30/2005) as amended, therefore it is binding to be dismissed formally, so the court decided

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 227 / Federal / 2022



to dismiss the request in formality, the decision was issued final and binding on all authorities under the provision of article (94) of the constitution, and article (5/2nd) of the court' law No. (30/2005) amended by law No. (25/2021), issued in the session dated 4.10.2022.

Signature of
The president

Jasem Mohammad Abbood

Athraa