

Republic of Iraq  
Federal Supreme Court  
Ref. 276 / federal /2022



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 6/2/2023 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, Dyar Mohammed Ali, and Munthir Ibrahim Hussein who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Uday Awad Kadhim – his agent the barrister Ayad Abdul Qadir Mohammed.

The Defendants: 1. The Prime Minister/ being in this capacity – his agent the legal counselor Qasim Suhaib Shakoor.  
2. The Speaker of the ICR/ being in this capacity – his agents the legal counselor Haytham Majid Salim and the official jurist Saman Muhsin Ibrahim.  
3. The Minister of Finance/ being in this capacity – his agent the official jurist Amir Abbas Qadir.  
4. The Minister of Planning/ being in this capacity.

### **The Claim**

The plaintiff claimed through his agent that the defendants participated in the preparation and issuance of the general budget laws for the fiscal years (2010, 2011, 2012 and 2013) and because they did not include the financial allocation equivalent to the amounts due to the province of Basra according to its production of crude oil, refined oil and gas produced and audited by the Federal Financial Supervision Bureau, and for the continuation and repetition of the same violation of the laws in force in subsequent years, he initiated an appeal before this court for not

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Republic of Iraq  
Federal Supreme Court  
Ref. 276 / federal /2022



Kurdish text

applying Article (44/2<sup>nd</sup>/8) of the Governorates Law. irregular in Region No. (21) for the year 2008 as amended, which included that among the financial revenues of the governorate are ((five dollars for each barrel of crude oil produced in the governorate, five dollars for each barrel of refined crude oil in the governorate's refineries, and five dollars for every (150) one hundred and fifty cubic meters produced of natural gas in the governorate)), article (3) of Law No. (4) of 2020 is the first amendment to the Federal Financial Management Law No. (6) of 2019 containing (... And the amounts financed for the current expenses of petrodollars to the trust account to complete their completion for the following year), and Article (27/V) of the Federal Financial Management Law No. (6) of 2019, as amended, which includes (the Ministry of Finance shall deduct the amounts resulting from the failure of ministries, the region, or governorates that are not organized in a region to transfer oil and gas revenues and other annual funding), and Article (29/2) of the same law containing (revenues shall be transferred to the account of the governorate - including the governorates of the region - Next Finance revenues: 2. The governorate's share of the revenues of border crossings and petrodollars), where the amounts due to the province of Basra according to its production of crude oil, refined oil and gas produced and audited by the Federal Financial Audit Office, as follows and in Iraqi dinars: (The year 2010: the amount realized = 809,557,053,240, the amount financed = 263,773,000,000, the remaining amount = 545,784,053,240) (2011: amount realized = 915,142,821,840, funded amount = 545,784,053,240, remaining amount = 369,358,768,600) and (2012: amount realized = 1,008,239,686,740, funded amount = 877,571,868,040, remaining amount = 130,667,818,700) and (2013: realized amount = 948,920,088,754, funded amount = 853,956,885,000, remaining amount =

*saady*

Republic of Iraq  
Federal Supreme Court  
Ref. 276 / federal /2022



Kurdish text

94,963,203,754), therefore, the plaintiff requested this court to order the defendants to implement the provisions of the aforementioned laws concerning the payment of the remaining petrodollar dues for the alleged years and to charge them the fees and advocacy fees. The lawsuit was registered with this court with the number (276/federal/2022) and the legal fee for it was collected based on the provisions of Article (21/1<sup>st</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 and the defendants were informed of its petition and documents in accordance with item (2<sup>nd</sup>) of the same article, and the agent of the first defendant replied with a detailed response statement summarizing that the plaintiff's interest in this lawsuit was not achieved based on Article (20) of the court's rules of procedure, in addition, the plaintiff based his claim in claiming the dues approved under the federal general budget laws for the years (2010-2013) on the Federal Financial Management Law No. (6) of 2019 (as amended), and this is incorrect as this law was enacted in 2019 and became effective in 2020 and does not apply retroactively, so he asked the court to dismiss the plaintiff's lawsuit and charge him the expenses, fees, and advocacy fees. The second defendant's agents replied with a detailed reply statement, requesting that the suit be dismissed and that the plaintiff be charged its expenses because he did not meet the condition of interest. The third defendant's agent replied in the reply list dated 1/2/2023, concluding that what was stated in the plaintiff's lawsuit does not represent a violation of the provisions of the constitution, nor did he specify the constitutional articles that he claims to violate due to the non-implementation of the budget law that he demands to be implemented, in addition to that the budget law is implemented during one fiscal year starting from 1/1 and ending on 31/12 of the year in question based on Article (1/9<sup>th</sup>) of the Financial Management Law, and

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therefore it does not serve as a legal basis for what the plaintiff requested, also, the budget laws for the aforementioned years and the Financial Management Law did not include anything to the effect that the unspent amounts to the governorates are a debt owed by the Ministry of Finance, and that determining what the governorates are entitled to with regard to petrodollars falls within the competence of the Ministry of Planning, considering that these amounts are included in the federal budget of the governorate, because the disbursement of petrodollar amounts granted to the governorates in accordance with the annual budget laws is in exchange for projects to be implemented in the governorate concerned and that the Ministry of Planning is responsible for this and for following up on those projects, so he asked for the dismissal of the lawsuit, but the fourth defendant did not respond despite being informed according to the law. After completing the procedures required by the Court's Rules of Procedure, a date was set to consider the case without pleading based on Article (21/3<sup>rd</sup>) thereof, in which the Court was formed and began its consideration, the Court examined what was stated in the petition, the grounds and requests of the plaintiff, and what was stated in the response regulations submitted by the agents of the first, second and third defendants, and since the Court completed its audits, 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 was found that the plaintiff Uday Awad Kazim filed this lawsuit against the defendants, the Prime Minister, the Speaker of the Council of Representatives, the Minister of Finance, and the Minister of Planning,

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Republic of Iraq  
Federal Supreme Court  
Ref. 276 / federal /2022



Kurdish text

in addition to their functions, requesting that the defendants be obliged to implement the provisions of the laws related to the payment of the remaining petrodollar dues for the years (2010, 2011, 2012 and 2013) to the province of Basra, where he indicated that the defendants participated in the issuance of the general budget laws for the aforementioned years and did not include the financial allocation of the amounts due to the province of Basra. Basra, where the text of Article (44/2<sup>nd</sup>/8) of the Law of Governorates Not Organized in Region No. (21) of 2008, as amended, has not been applied, as well as the text of Article (3) of Law No. (4) of 2020 has not been applied, the first amendment to the Federal Financial Management Law No. (6) of 2019 as well as the non-application of Articles (27/V) and (29/2) of Law No. (6) of 2019, as amended, and he claimed that there are amounts incurred for the province of Basra according to its production of crude oil, refined oil, and gas, which are payable and audited by the National Audit Office and mentioned for the years above and according to the table attached to the lawsuit file. The court finds that one of the conditions for accepting the lawsuit is the condition that the interest is available and that this interest is known, conditional, possible, and realized following what is stipulated in Article (6) of the Civil Procedure Law No. (83) of 1969, as amended, and that the plaintiff in the subject matter of the lawsuit has a current, direct, and influential interest in his legal, financial, or social status, provided that it is available from the filing of the lawsuit until a judgment is issued, according to what is stated in paragraph (1<sup>st</sup>) of Article (20) of the Law. Internal Court of the Federal Supreme Court No. (1) of 2022. It is proved that there is no case, direct and influential interest in the legal, financial, or social status of the plaintiff, so the plaintiff's claim must be rejected from this side. Accordingly, the Federal Supreme Court decided to dismiss the plaintiff's lawsuit Uday

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Republic of Iraq  
Federal Supreme Court  
Ref. 276 / federal /2022



Kurdish text

Awad Kazim for lack of interest and to charge him the fees and expenses and the amount of one hundred thousand dinars advocacy fees for the defendants' agents, the legal advisor Qassim Suhaib Shakour, the agent of prime minister/ being in this capacity, the legal advisor Haitham Majid Salem, the official jurist with the rank of director, Saman Mohsen Ibrahim, the agents of the speaker of the Council of Representatives/ being in this capacity, and the official jurist Amer Abbas Qadir, the agent of the minister of finance/ being in this capacity, to be distributed among them according to 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 5/2<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 edited in the session dated 14/Rajab/1444 Hijri coinciding 6/February/2023 AD.

**Judge**

**Jassim Mohammed Abbood**  
**President of the Federal Supreme Court**

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