

Republic of Iraq
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The Federal Supreme Court (F.S.C.) convened on 21.9.2022 headed by Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Galeb Amer Shneen, Haider Jaber Abed, Haider Ali Noory, Khalaf Ahmed Rajab, Ayoub Abbas Salih, Abed Alrahman Sulaiman Ali, and Diyar Muhammad Ali, who are authorized to judge in the name of the people, they made the following decision:

The plaintiff in the lawsuit (49/federal/2022): Uday Auad Kadhem- his attorney Fawzy Kadhem Hasan.

The plaintiff in the lawsuit (83/federal/2022): Mustafa Jabar Sanad/ MP – their agent Ali Kamel Rasol.

Third-party beside the defendant: Basem Khazaal Khashan /MP

Third-party in the unified lawsuit: Intesar Hasan Yousif Aljazaary/ member of the parliament committee of oil power.

Their agent the attorneys Ahmed Saeed Mosa and Haider Saeed Mosa.

The defendants: 1. The prime minister /in addition to his post.

2. the general secretariat of the council of ministers/ in addition to his post.

Their agent the legal advisor Haider Ali Jaber

3. the minister of oil/ in addition to his post – his lowers are Hadel Gazee Abd Alrazaq and Nawal Qasem Hashem.

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Third-party besides the defendants: head of the national oil company/ in addition to his post – his lawyers the second deputy of the head of the president of the company Laith Abed Al-Hussain and the legal officials Ali Abed Alhusain and Azez abd Alazez Sadiq.

the claim:

The plaintiff (Uday Awad Kazim) claimed through his attorney that the Council of Ministers issued Resolution No. (109) for the year 2020, which included assigning the Minister of Oil (Ihsan Abdul-Jabbar Ismail) the tasks of the head of the Iraqi National Oil Company to start the procedures for forming the company's board of directors, followed by the issuance of Resolution No. (211) for the year 2021, which includes the formation of the company's board of directors, and these two decisions resulted in the issuance of many orders from the Ministry of Oil, as well as correspondence from the Chairman of the Board of Directors of the company, despite the fact that the Federal Supreme Court had previously ruled the unconstitutionality of some articles of the Iraqi National Oil Company Law No. (4) of 2018, and among these articles are those related to the appointment of the company's president, and that the decision of the Council of Ministers violates the Constitution of the Republic of Iraq for the year 2005, as well as a violation of a number of laws in force, so the plaintiff took the initiative to challenge it before this court based on Article (93/Third) of the Constitution This is for the following reasons:

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1. An absolute, conclusive, and binding violation of the Federal Supreme Court Decision No. 66 and its units/Federal/2018, which ruled that some articles of the Iraqi National Oil Company Law No. (4) of 2018 are unconstitutional. Under Article (94) of the Constitution, the court's decision is final and binding on all authorities and may not be violated.

2. Loss of the constitutional and legal basis for appointing the company's president. As a general rule, it is not permissible for the Council of Ministers to rely on an invalid legal text regarding the appointment, since the Iraqi Council of Representatives, according to Article (61/first) of the Constitution, is exclusively concerned with legislating the First Amendment Law of the Oil Company Law, therefore, there is no legal basis for the Council of Ministers to be mandated.

3. The decision under appeal violates the principle of the supremacy of the Constitution stipulated in Article (13) of it.

4. Violation of Article (7/First), as it required a service of no less than (25) years in terms of reference that qualifies him to manage the company, while a decision was issued to appoint him and his term of service did not exceed 20 years, in violation of the National Oil Company Law, which was voted on in Parliament session No. (14)) and the First Amendment Act of the Company Law, which he did not vote on.

5. The letter of the Chairman of the Oil and Energy Committee No. (54 on 4/7/2021) and Ministerial Order No. (756 on 6/6/2021) included stopping

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the procedures for proceeding with any activity related to the Iraqi National Oil Company, and when the plaintiff submitted a request from the Federal Court The Supreme Court ruled that the decisions of the Council of Ministers under appeal were unconstitutional, and charged the defendants with fees and attorney fees. The case was registered with this court in No. (49/Federal/2022) and the legal fee was collected for it in accordance with Article (1/Third) of the Federal Supreme Court's internal system No. (1) of 2005, and it informs the defendants of its petition and documents in accordance with Article (2/First) From the same bylaw, the attorney for the first defendant replied with the answer statement dated 4/21/2022, summarizing that the plaintiff's request is outside the jurisdiction of this court specified under Article (93) of the Constitution and Article (4) of its amended law, and his appeal shall be before other authorities. Based on the provisions of Article (7/Fourth) of the amended State Council Law No. (65) of 1979, and this is what was settled by the judiciary of the Federal Supreme Court in its decisions (96 and 118/Federal /2019), in addition to the lack of a condition of interest for the plaintiff to file this case because it does not violates his constitutional rights in a way that causes direct harm to him, and then he is deemed to have lost one of the conditions for filing a case based on the provisions of Article (6/first and second) of the Federal Court's internal system No. (1) of 2005 and Article (4) of its Law No. (30) of 2005, plus no connection between the court's decision No. (66/Federal/2018) and the subject of the two decisions subject to appeal,

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the cabinet's decision did not contain any violation of the court's decision, which did not rule the position of the company's president as unconstitutional but rather included the unconstitutionality of his job rank. The difference between the two matters is clear, and the cabinet's decision did not include the appointment of the Minister of Oil (Ihsan Abdul-Jabbar Ismail), but rather included assigning him the duties of the company's president to start the procedures for forming the company's board of directors to ensure the implementation of what was stated in paragraph (2) of the decision of the Council of Ministers (the subject of appeal), which includes completing the steps for establishing the company through its board of directors choosing an office a specialized consultant to work on setting the administrative structure, classifying tasks and responsibilities, and determining the value of the fixed assets of the owned companies in preparation for their disengagement from the Ministry of Oil and their ownership by the National Oil Company without compensation in line with the provisions of Articles (5/first and 7/fifth) of the above-mentioned company law, especially that Article (6) From the same law, it indicated that the chairman of the company's board of directors is the head of the National Oil Company, and that the company enjoys a legal personality and is represented by its chairman or whomever he authorizes, and it is linked to the Council of Ministers in accordance with Article (2/first) of it. It is necessary to carry out the company's tasks in accordance with Article (9) of it. Therefore, the decision of the Council of Ministers under appeal came to

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implement the law of the National Oil Company and in implementation of the provisions of Paragraph (Third) of Article (80) of the Constitution, and this assignment does not mean in any way The Council of Ministers replaced the Council of Representatives in legislating laws, as the decision to assign to run the affairs of the National Oil Company is one thing, and proposing draft laws and voting on them is another thing. The prosecutor's representative distinguishes between the law and the draft law, as the Cabinet's decision included approving the draft law amendment and referring it to the Parliament as the competent authority to enact laws based on the provisions of Article (61/first) of the Constitution, Moreover, the plaintiff did not explain the violation committed to adopting the decision in question, especially since the amendment came in implementation of the aforementioned court decision, and that the text of Article (7/First/1) of the company law had previously been canceled under the aforementioned court decision and it is not permissible to rely on it, He also did not indicate the constitutional provisions that were violated by the two decisions under appeal, and since the National Oil Company Law No. (4) of 2018 is still in force and has not been repealed by any text based on the text of Article (130) which stipulates (the legislation in force remains in force unless it is repealed). or amended, in accordance with the provisions of this Constitution), and that the creation of this company came for the purpose of ensuring the exploration and development of the production and marketing of oil resources in the fields and lands allocated to it by law on

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behalf of the Iraqi state, to increase production and to develop the oil and gas industry to maximize revenues for the benefit of the Iraqi people in accordance with international standards. The attorney for the first defendant requested that the case be dismissed in terms of formality and substance and that the plaintiff is charged with fees and expenses. The two undersecretaries of the third defendant (the Minister of Oil in addition to his job) responded with the answer list dated 3/28/2022, summarizing that the Council of Ministers issued Resolution No. (109) for the year 2020 the amount to the Ministry of Oil according to the letter of the General Secretariat of the Council of Ministers No. (Shin. Zin. Lam./ 10/1/3/10/15206 on 9/9/2020) which includes approving the first amendment to the law of the Iraqi National Oil Company and referring it to the Council of Representatives and completing the steps for establishing the Iraqi National Oil Company through its board of directors by choosing a specialized office to work the administrative structure and classify tasks and responsibilities In preparation for its disengagement from the (Ministry of Oil), as well as assigning their client the duties of the company's president (in addition to his job) to ensure the implementation of what was stated in Paragraph (Second) of the aforementioned decision related to the completion of the establishment of the company under investigation, and that the Council of Ministers, by virtue of its aforementioned decision, has exercised its powers granted to it based on the provisions of Article (80/First) of the Constitution of the Republic of Iraq for the year 2005 represented in planning and

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implementing the general policy of the state and general plans and supervising the work of ministries and agencies not associated with a ministry, in addition to what was stated in Paragraph (Third) of the same article that authorized The Council of Ministers has the power to issue regulations, instructions, and decisions with the aim of implementing laws, and in that decision, it exercised its powers for the purpose of implementing the provisions of Law No. (4) of 2018, the Iraqi National Oil Company. Ministerial No. (2) of 10/18/2018 regarding the disengagement of companies affiliated with the National Oil Company stipulated by law from the Ministry of Oil, except for companies whose affiliation with the aforementioned company has been canceled according to Federal Supreme Court decision No. (66 unified with 71, 157, and 244 / Federal/media/2018), and based on the aforementioned order, these companies have disengaged from the Ministry of Oil, in addition to the transfer of the rights and obligations related to all these companies to the Iraqi National Oil Company in accordance with the law, and for the foregoing, the attorneys of the third defendant requested that the case be dismissed because the litigation was not directed against their client, as Not responsible for issuing those orders. After completing the procedures required by the Federal Supreme Court's internal system No. (1) of 2005, a date was set for the pleading in accordance with Article (2/second) of it, and the parties were informed of it. On the appointed day, the court was formed, and the prosecutor's attorney, Fawzi Kazem Hassan, attended, and attended on behalf of the two defendants.

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The first and the second were their attorneys, the legal advisor, Haider Ali Jaber, and the attorneys of the third defendant attended, the two legal staff, Hadeel Ghazi Abdel Razzaq, Nawal Qassem Hashem, and Bushar pleaded in the presence and in public. The court noted that the lawsuit filed before it in No. (83/Federal/2022) by the plaintiff (Mustafa Jabbar Sanad and the third person next to him Basim Khazal Khashan against the defendant (the Prime Minister / in addition to his position) and considered by this court is on the same day and its subject matter is the same as the subject matter of the case (49/Federal/2022) and for the unity of the subject matter and to shorten the time and effort, the court decided to unify the two cases and consider them together based on the provisions of Article (76/2) of the Civil Procedure Code. Civil No. (83) for the year 1969, amended, and considering the case numbered (49/Federal/2022) as the original, the parties to the lawsuit (83/Federal/ 2022) were summoned. And they asked for a ruling accordingly, the defendants' attorneys answered and asked each of them to dismiss the case on behalf of his client for the reasons mentioned in their lists attached to the case papers. His request was dated 6/15/2022 and for the legitimacy of the request, the court decided to accept it, and he paid the legal fee for that and presented the draft dated 17/7/2022 and linked within the lawsuit papers, the court noted that the lawyer Ahmed Saeed Musa submitted an application dated on 14/8/2022 as an agent for the applicant for entry, a third person alongside the plaintiffs (Intisar Hassan Yousef Al-Jazaery), a member of the Parliamentary Oil and Energy

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Committee, the request is included in the case papers and the court decided to accept the application and the legal fee was paid, The plaintiffs' attorneys in the original and unified lawsuit repeated what was stated in the lawsuit pleading and requested a ruling accordingly. The defendants' attorneys answered and repeated their request to dismiss the lawsuit for the reasons stated in their response regulations, and after the court completed its audits and listened to the last statements of the parties, it decided to conclude the pleading and issued the following judgment decision:

The decision:

Upon review and deliberation by the Federal Supreme Court of what was stated in the original and unified lawsuit and what was stated in the defenses of the defendants' attorneys and the third person on their side (the head of the Iraqi National Oil Company / in addition to his job) and through the public pleading, the court reached the following conclusions:

First: The condition of personal interest requires that the Federal Supreme Court decision in it from its practical aspects and not from its theoretical data or its abstract perceptions. This means that the constitutional lawsuit shall not be accepted from other than the persons who are affected by the harm as a result of the application of the contested text to them and that the duty of the Federal Supreme Court and under the Constitution To exercise its jurisdiction in matters that affect the lives, freedoms, and money of individuals

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drawn up by the constitution in a manner that ensures their effectiveness and in a manner that ensures the proper application of the law and the realization of the supreme interest of the people, given that the Constitution of the Republic of Iraq for the year 2005 is the product of the people's will based on the provisions of Article 144 thereof, which stipulates (This constitution is considered effective, after approval by the people in a general referendum,...) The constitution was not made for the benefit of a particular political party, sect, or nationality, but was established for all Iraqis without discrimination based on gender, race, nationality, origin, color, religion, sect, or Belief based on the provisions of Article (14) of it and set to protect the rights and freedoms recognized by the Constitution for the Iraqi people, according to what was stated in Part Two of it, Articles (14 and 46) of it, and that the purpose of organizing the federal authorities and all other independent bodies according to it is to abide by the constitution with all its articles and not to deviate from it. Therefore, the application of the constitution obliges all federal authorities to work for the interest of the people, because that interest is achieved through adherence to the constitution and not violating it for any reason. Failure to adhere to the constitution represents a departure from the will of the people. Therefore, any authority that exceeds the provisions of the constitution that created it loses the legitimacy of its existence, as stated in the decision issued by this court No. (23 unified with 25/Federal/2022) on 3/1/2022 (that all of this assumes full adherence to the provisions of the Constitution, given that the

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Constitution is what gives legitimacy to the federal and regional state institutions, otherwise those authorities lose their legitimacy) as the purpose of the Constitution is to establish a democratic parliamentary system of government based on the peaceful transfer of power through democratic means stipulated in it based on the provisions of Article (6) Therefore, the interest in the constitutional case is a legal interest that the constitution protects and protects, and it is not required that the legal protection be returned to the interest by an explicit provision in the constitution, but the judge can reach it by analogy or by looking at the general constitutional principles. And since public funds are sanctified according to the heavenly laws, when God Almighty said in the court of His Mighty Book (and do not consume your wealth among yourselves unjustly, and pass it on to the rulers, so that you may consume a group of people's wealth in sin while you know) Surah Al-Baqarah (verse 188), and the Almighty said in Surat An-Nisa - the two verses: 29 and 30) (O you who believe, do not eat your money between yourselves unjustly, unless it is a trade by mutual consent of you, and do not kill yourselves, for God has been merciful to you, and whoever does that in aggression and injustice, we will cast him into fire, and that was easy for God) and the Almighty said in Surat Al-Isra - verse 26 (Give the relative his right, the poor and the wayfarer, and do not squander wastefully) Article (27/first) of the constitution stipulates that (public funds are sanctified, and protecting them is the duty of every citizen) and since public funds are allocated for the benefit of

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all the people, as every individual has a right In it and its possession by the state and its institutions is a legal possession, the purpose of which is to preserve it and find the necessary means to spend it for the benefit of the people. Therefore, according to the constitution and the law, all institutions and their employees must maintain the sanctity of those funds. Therefore, the constitution was imposed by virtue of the aforementioned text states that the protection of public money is the duty of every citizen, and therefore every citizen has the right to pay the harm that befalls the public money, which as a result turns into a special harm represented by the low standard of living, the spread of poverty and the lack of services, especially that the constitution in Article (27/first) of it is higher Public funds and the extent of their importance given the seriousness of the effects of not protecting them by affecting the individual's income, investment and saving opportunities, and providing job opportunities, and the failure to maintain them tends the national economy towards hurricanes that do not secure their consequences, in particular ensuring the rights of people with limited income, ensuring price stability and preserving The rate of growth and the provision of requirements to face the burdens of life for every citizen, since the rule of law and its application must take into account that people are secure in their rights, money, freedoms and honor, and that it is not intended to achieve personal interests at the expense of sacrificing the interest of the people, and that functional powers do not continue in violation of the law and the higher public interest Since all citizens are

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entrusted with faithfully and faithfully performing their duties towards the country, it is the duty of all state institutions to ensure and maintain their rights. Oil and Gas are the property of all the Iraqi people, based on the provisions of Article (111) of the Constitution. The people's interest requires that this be protected and the damage paid for it. Therefore, the interest in the case is realized, and this is consistent with what was stated in Article (20/first) of the internal system of the Federal Supreme Court. No. (1) of 2022, which requires that the interest be a case, direct and influence the legal, financial or social position of the plaintiff.

Second: Public money represents the material means for the administration to carry out its activities, and public money is of great importance as it is the main nerve of the state's economic system and its protection depends on achieving the public interest through the realization of the principle of ensuring the continuity of public utilities regularly and steadily, and this is largely reflected on the welfare and development of societies, and the division of funds In general, to public funds and private funds, the private money is the money owned by natural persons, private legal persons, and public legal persons when the state treats them as individuals. As for public money, it belongs to the public legal persons as they are persons of public law, and from this, it follows that the public legal persons have Private funds and public funds, as Article (71) of the Iraqi Civil Code No. (40) of 1951, as amended, stipulates that (1- real estate and movable property owned by the

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state or legal persons that are intended for a public benefit are considered public funds or under the law, 2. These funds do not It may be disposed of, seized, or possessed by prescription) and based on the great importance of public money Most of the constitutions of the world recommended protecting it, including the Constitution of the Republic of Iraq for the year 2005, as Article 27 / first of it states that (public funds are inviolable, and protecting them is the duty of every citizen), as most of the laws establishing the supervisory authorities stipulate the protection of public money and prevent it from being attacked. Or harm it, as Article (2/Second) of the Financial Supervision Dewan Law No. (31) of 2011, as amended, stipulates that (it is considered a financial violation of this law: negligence or negligence leading to loss or waste of public money or harming the national economy) as stated in Article (3/alif) of the same law states that (The Dewan shall supervise: a. Public money wherever it is found and audited.) Article (4/First) of the aforementioned law states that (The Dewan seeks to achieve the following objectives: First: Preserving public funds from waste, waste or misuse and ensuring the efficiency of its use) Article (6/First) from it that (The Dewan performs the following tasks: Monitoring and auditing the accounts and activities of the entities subject to oversight, verifying the proper disposal of public funds and the effective application of laws, regulations, and instructions). Article (8/First) of the same law stated that (the following institution shall be under the supervision of the Dewan: first– State institutions

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and departments, the public sector, or any party that disposes of public funds by collection, spending, planning, financing, banking, trade, or the production of objects or the production of goods and services). Article (16) of the same law stated that (the Dewan is obligated to inform the public prosecutor or Integrity commission or the competent investigative authorities, each according to its competence for each financial violation that it discovers if it constitutes a crime) As for the Integrity and Illicit Gain Commission Law No. (30) of 2011 amended by Law No. (30) of 2019 it did not include the term public money In the body of the law, except within the compelling reasons, and this indicates the lack of clarity in the legislator's vision in this, and the Iraqi legislator was required to expand the base of protection for all public funds that are allocated for the public benefit. By the legally mandated authorities, this constitutes a violation of the provisions of Article (27/First) of the Constitution, and the failure to achieve this leads to the absence of social justice due to the people not obtaining their rights from the country's wealth and the absence of national affiliation towards the state, as well as to a major rift, crisis, and contradiction within society. On the plundering of the country's wealth and its aggravation in society, the private interest should prevail over the public interest, and the failure to preserve public money leads to the state's failure to fulfill its constitutional duties following what is decreed for it in Articles (29-36) of the Constitution related to the protection of childhood and old age, ensuring social and health security and providing the ingredients the basic principles of living a

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free and dignified life, addressing unemployment, preventing ignorance and poverty, providing housing and health care, ensuring means of prevention, treatment and care Disabled and those with special needs, ensuring free education for all Iraqis at all levels, and encouraging scientific research.

Third: Oil represents the lifeblood of the Iraqi economy, and the development of the oil sector entails providing the necessary financial resources to invest in building real human and material capital, and plans to rebuild the Iraqi economy must be linked to the investments and developments that occur in this sector, and Iraq has passed since More than four decades of mismanagement and lack of investments, which negatively affected the oil sector in particular and the national economy in general. Despite the progress of the extractive industry in Iraq and its achievement of distinguished strides in production rates, its infrastructure is not at the required level compared to neighboring oil-producing countries due to neglect, confusion, and improvisation. In the management of this ministry and the destruction caused to it by wars due to the policies of the former regime, the interest in oil is not only considered the main artery of the economy but also because it is a national wealth that should be taken care of and saved from neglect and waste. Oil was a focal point in dividing the remains of the Ottoman Empire and the spoils among the allies in World War I, including the rights of the Turkish Oil Company. Oil was a key factor in drawing the map of the Middle East and distributing the mandate power between Britain and France. In 1921, Iraq

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agreed to grant concession rights to a group of Western oil companies (British, French, Dutch, and American), and accordingly, in 1925, an agreement was signed. Accordingly, the concession agreement was signed in 1925, which was later renamed the Iraq Petroleum Company, and this was followed by the extension of the geographical area of the concessions of the western companies through the establishment of the Mosul Oil Company and then the Basra Oil Company and for the same owners of the Iraq Petroleum Company. The supervision and follow-up were from the Iraqi side It is also done through the competent department in Baghdad, which became the Ministry of Oil in 1960. In 1961, Law No. (80) was issued, which is the start of national control over oil wealth. On February 8, 1964, according to Law No. (11) of 1964, announcing the establishment of the Iraqi National Oil Company, which defined its responsibilities and powers under Law No. (97) of 1967 and Law No. (123) of 1967. After long and complex negotiations, the IPC did not agree to the demands of the Iraqi government, which led to the announcement of the nationalization of the IPC on June 1, 1972. The Basra Oil Company was nationalized in 1973 and 1975, while the Mosul Oil Company was ceded to Iraq on March 1, 1973, and the oil industry witnessed during the seven years In the post-nationalization years, a large, wide growth coincided with a significant rise in international oil prices, which led the Ministry of Oil to invest in developing fields, increasing production capacities, establishing pipelines, whether for export or internal transportation of oil derivatives and associated

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gas, and establishing ports for exporting crude oil in Turkey and the Arabian Gulf. And the development of oil energies, oil storage and gas industry, and many giant fields were explored, including Majnoon, Halfaya, and West Qurna. The Ministry of Oil developed a plan to double the capacity of liquidation and gas manufacturing to fully invest in the associated gas and prepare it for factories, factories, and power plants. On 9/13/76, Law No. 101) for the year 1976, where Article (1/Second/A) thereof stipulates that (The Ministry of Oil consists of the following: 1. The entities associated with the Ministry are: 1. The Iraqi National Oil Company, which is expressed as the company for this law and consists of 1. The company's center 2. Institutions associated with the company), and on May 11, 1987, the dissolved Revolutionary Command Council Resolution No. (267) was issued, according to which (the center of the National Oil Company was merged with Iraqi intention in the position of the Ministry of Oil), and on 9/11/1995 the dissolved Revolutionary Command Council Resolution No. (79) was issued, where it came in item (first) of it ((The text of paragraph (1) of the item (Third) of the dissolved Revolutionary Command Council's decision is canceled. No. 267 on 4/26/1987 and replaced by the following: 1. All legislation related to the (canceled) Iraqi National Oil Company shall apply to the Ministry of Oil and its formations, and on 17/1/2007 Law No. (9) was issued the Law of Importing and Selling Petroleum Products On February 18, 2008, the Private Investment Law in the Refining of Crude Oil was issued, and the two aforementioned laws

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were related to the Ministry of Oil. It (hydrocarbon wealth means crude oil, associated and free gas and their derivatives) and in Article (2/first) of it (the Ministry of Oil shall be the responsible party for implementing this law), and on 4/4/2018 the Iraqi National Oil Company Law No. (4) of the year was issued. 2018, where Article (2/First) of it stipulates that (a public company called (the Iraqi National Oil Company) shall be established under this law) with a legal personality. and financial and administrative independence, represented by its president or whomever he authorizes and linked to the Council of Ministers...) The aforementioned law was challenged before this court and the Federal Supreme Court issued its decision No. 66 and its units 71, 157 and 224 / Federal / 2018) on January 23, 2019, which includes (First: the ruling unconstitutionality The following articles: 1. Article (3) of the law related to the company's objectives for violating the provisions of Articles (112) with its paragraphs (first) and (second) and Article (114) of the Constitution. 2. Paragraphs (Third and Fifth) of Article (4) of the law as far as the process of oil marketing is concerned, as this is one of the tasks of the Ministry of Oil and the company associated with it because it contradicts the provisions of Article (112) of the Constitution. 3. Article (7/First/1) of the law, stipulates that (the company is headed by an employee with the rank of the minister because it contradicts the provisions of Article (62/second) of the Constitution 4. Clause (h) of Paragraph (Second) of Article (7) of The law related to making the Oil Company (SOMO) one of the formations linked to

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the position of the company due to its conflict with the provisions of Article (110 / first and third) of the Constitution 5. Article (8) of the law, stipulates the functions of the board of directors because it contradicts the provisions of Articles (78), (80), and (112) of the Constitution 6. Article (11) of the law conflicts with Articles (78), (80) and (111), and (112) of the Constitution 7. Article (12) of the law clarifies the company's financial revenues, profits, and ways of distribution, due to their conflict with the provisions of Articles (78), (80/first and second), (106), (111), and (112) of the Constitution 8. Article (13/Second) of the law because it contradicts the provisions of Article (62/Second) of the constitution 9. Article (16) of the law because it contradicts the provisions of Article (5) of the Constitution 10. Article (18/sixth) Second: Refusal of the remaining appeals) Thus, canceling the aforementioned essential articles of the law cannot proceed with the formation of the company and say that all canceled articles do not affect the establishment of the company through the substitution of articles Regarding the Companies Law No. (21) of 1997, the place of some of the canceled articles is constitutional and legal because the aforementioned law and based on the provisions of Article (3) of it shall apply. Mixed companies, private companies, and all investors, and the company under Article (4/first) of it is defined as (a contract in which two or more persons are obligated to each of them contribute to an economic project by providing a share of money or work to share the resulting profit or loss). Likewise, if the defendant's agents and the third person on their side pay by

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substituting the articles of the Customs Law, the Financial Management Law, the Aliens Residence Law, the Government Contracts Law, the instructions for facilitating their implementation, and the law on the sale and lease of state funds in place of the articles that the court has ruled unconstitutional, then that payment is also rejected and has no basis in the constitution and the law. This is because when the law is legislated in its entirety, it is legislated for certain reasons and its texts complement each other. Therefore, when deciding the unconstitutionality of certain articles of the law, it is not possible to replace those articles with other laws, but the will of the legislator and his competence to legislate other articles to replace them, and saying otherwise is robbed. The legislative authority is part of its constitutional competencies, especially since the decisions and rulings issued by the Federal Supreme Court are final and binding on all authorities based on the provisions of Article (94) of the Constitution, and since the draft law presented to the Council of Representatives after the issuance of Federal Supreme Court Decision No. (66 and its units 71 and 157 and 224/Federal/2018) were not voted on, so initiating the complete establishment of the National Oil Company contradicts that, and therefore Cabinet Resolution No. (109) of 2020 represents an improper application of the provisions of the Constitution and the law, and since the Federal Supreme Court decides on issues arising from the application of federal laws, regulations, instructions, and procedures issued by the federal authorities under Article (93/Third) of the Constitution, and for all of the

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83 / Federal / 2022



above, the Federal Supreme Court decided to rule that Paragraphs (2 and 3) of Cabinet Resolution No. (109) of 2020 and Resolution No. (211) of 2021 to be invalid, and to burden the defendants, in addition to their jobs, to pay fees, expenses, and attorney fees for the attorneys of the plaintiffs, lawyers, each of Fawzi Kazem Hassan, Ahmed Saeed Musa, and Haider Saeed Musa, an amount of one hundred thousand dinars, distributed among them in accordance with articles (93 and 94) of the constitution, and articles (4 and 5/Second) of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021 and publicly understood on Safar 24/1444 AH corresponding to 9/21/2022 AD.

Signature of
The president

Jasem Mohammad Abbood

Athraa