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Federal Supreme Court  
Ref 69/ federal/2024



Kurdish text

The Federal Supreme Court (F S C) has been convened on 9/6/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Ali Noori, Khalaf Ahmed Rajab, Ayoob Abbas Salih, Dyar Mohammed Ali ,Khaled Taha Ahmed, and Munther Ibrahim Husain who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Azad Abdul Hameed Ahmed.

The Defendants:

1. Prime Minister of the Kurdistan Regional Government / being in this capacity - His agent the adviser barrister Ayad Ismail Mohammed.
2. Prime Minister in the Federal Government / being in this capacity – His agent the Legal Advisor Qassim Suhaib Shakour.
3. Speaker of the Federal Council of Representatives / being in this capacity - His two agents the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman.
4. Minister of Natural Resources in the Kurdistan Region / being in this capacity - His agent the adviser barrister Ayad Ismail Mohammed.
5. Minister of Oil in the Federal Government / being in this capacity - His two agents the official jurists Saman Mohamed Hussein and Muhammad Majeed Mizaal.

**The Claim:**

The plaintiff claimed in the lawsuit petition that Law No. (13) of 2023 of the Federal Budget of the Republic of Iraq for the fiscal years (2023-2024-2025) included in Articles (1, 11, 12 and 13) thereof the estimation of the revenues of the federal general budget for the fiscal year 2023, determining the share of the Kurdistan Region, how to settle dues between the federal government and the Kurdistan Regional Government for the years from 2004 to 2022, how to finance and audit

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the region's dues, and the mechanism for resolving the resulting disputes, and since the non-application of the aforementioned articles hinders economic and urban expansion. and infrastructure in the Kurdistan Region, which increases the spread of poverty and unemployment, thus, it leads to family disintegration, an increase in the rate of crime and accidents, and the discouragement of the private sector... In addition, the implementation of the court's decision (224 and its consolidation 269/federal/2023) is difficult, especially with regard to the data of the region's employees, and when the plaintiff requested this court to rule to oblige the defendants / being in their capacity to pay the share prescribed for the region for the fiscal year 2023 and oblige them to implement the articles (1, 11, 12 and 13) of Law No. (13) of 2023 Federal Budget of the Republic of Iraq for the fiscal years (2023-2024-2025) in accordance with constitutional articles (121/Jim, 117, 111, 14, 16, 26 and 27) and charging them expenses and attorneyship fees. After registering the case with this court No. (69/Federal/2024) and collecting the legal fee for it, and informing the defendants / being in their capacity of its petition and documents in accordance with Article (21/1<sup>st</sup> and 2<sup>nd</sup>) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022, the second defendant's agent, the Prime Minister of the Federal Government / being in this capacity in his regulation dated 19/3/2024, replied to its conclusion: that the plaintiff's request falls outside the jurisdiction of the court, in addition to the lack of interest for him to file the lawsuit, also, the litigation is not achieved against his client based on the provisions of article (4) of the Civil Procedure Law, and article (12/2<sup>nd</sup>/Heh) of the Federal Budget Law No. (13) of 2023 stipulates that (the Federal Ministry of Finance is committed to financing the region's dues pursuant to the provisions of this Law...), article (1) of the same law refers to the estimation of budget revenues and the calculation of

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estimated revenues of exporting crude oil, including (400,000) barrels per day for the quantities of crude oil produced in the Kurdistan Region, and obliging ministries and entities not associated with the ministry, governorates and the Kurdistan Regional Government to record all amounts of grants, donations and cash levies obtained under memorandums of understanding with foreign governments or in any other way after accepting them from the Federal Minister of Finance as final revenue to the treasury, however, the Kurdistan Regional Governments did not comply with this, and Articles (12 and 13) of the aforementioned budget law included that the financial dues between the federal government and the Kurdistan Regional Government for the years (2004-2022) are settled, and the Kurdistan Regional Government is obligated to ship (400) thousand barrels of crude oil per day and deliver non-oil revenues to the state treasury and according to the Federal Financial Management Law after that, the Federal Ministry of Finance shall finance the dues of the region determined under this law, and the Kurdistan Regional Government shall deposit the total revenues of locally exported and sold oil produced from fields located in the region in a single bank account opened by the Federal Ministry of Finance with the Central Bank of Iraq in which all revenues derived from the export or sale of oil shall be deposited applying the provisions of the two articles above, so he requested to reject the lawsuit the third defendant's agents, the Speaker of the Federal Council of Representatives/ being in this capacity replied in the answering draft dated 7/3/2024, its conclusion: that the lawsuit must be rejected, due to the lack of interest condition, and the lack of litigation orientation, as the implementation of laws it is within the jurisdiction of the executive authority, and what the plaintiff requested falls outside the jurisdiction of the court stipulated in Article (93), of the Constitution, and based on

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the provisions of Article (4) of the Civil Procedure Law No. (83) of 1969, as amended, they requested to reject the lawsuit. After completing the procedures required by the court's rules of procedure, a date was set for the pleading in accordance with Article (21/3<sup>rd</sup>) thereof, and the parties were informed of it, in which the court was formed, so the plaintiff himself and the defendants' agents attended and began to conduct the public presence pleading, the plaintiff repeated what was stated in the lawsuit petition and the request for judgment accordingly, the agents of the second and third defendants answered and requested to reject the lawsuit for the reasons stated in their regulations attached to the lawsuit, the agents of the fifth defendant, the Minister of Oil in the Federal Government, being in this capacity, answered and requested to reject the lawsuit for the reasons stated in their regulations dated 28/4/2024, which summarized the lack of interest condition for the plaintiff from filing the lawsuit, and that their client is not interested in implementing the budget items, in addition to the Kurdistan Regional Government's non-compliance with the text of article (12) of the Budget Law, as the Ministry of Oil did not receive any quantities of Kurdistan Regional Oil for export purposes from 1/1/2023 until the date of this regulation, noting that export is suspended by the Kurdistan Regional Government from 22/3/2023 the defendants' agent replied (The first is the Prime Minister of the Kurdistan Regional Government, and the fourth is the Minister of Natural Resources in the Kurdistan Region/ being in their capacity) he requested to reject the lawsuit for the reasons stated in his reply list dated 9/6/2024 ((which concluded by the lack of jurisdiction of the Court Considering the plaintiff's requests and the lack of interest requirement as required by article (20) of the Court's Rules of Procedure, especially since the plaintiff filed his claim in his personal capacity and does not represent any official authority, in addition to the

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lack of criteria mentioned in article (6) of the Code of Civil Procedure, so the litigation is incompatible in the case)). After the Court heard the parties and completed its scrutinies the end of the argument has been made clear and the court issued the following judgment:

**The Decision:**

Upon scrutiny and deliberation by the Federal Supreme Court and after reviewing the statement of claim and the requests contained therein on the defenses of the defendants' agents / being in their capacity fixed in the highlighted lists, it became clear that the plaintiff filed the lawsuit before this court based on the provisions of Article (93/3<sup>rd</sup>) of the Constitution of the Republic of Iraq of 2005, to demand a judgment to oblige the defendants / being in their capacity. Pay the share prescribed for the region for the fiscal year 2023, in accordance with the budget law and oblige them to implement articles (1, 11, 12 and 13) law no. (13) of 2023 on the Federal Budget of the Republic of Iraq for the Fiscal Years (2023-2024-2025) in terms of constitutional articles (121/Jim, 117, 111, 14, 16, 26 and 27) and charging them fees, expenses and advocacy fees. The Federal Supreme Court finds that the plaintiff's lawsuit must be rejected, due to the lack of the interest condition necessary for its establishment stipulated in article (6) of the Civil Procedure Law No. (83) of 1969, as amended, and in accordance with article (25) of the Rules of Procedure of the Federal Supreme Court No. (1) of 2022 published in the Iraqi Gazette No. (4679) on 13/6/2022, which stipulated that ((for every interested party Direct appeal of a lawsuit submitted to the court to adjudicate cases arising from the application of federal laws, decisions, regulations, instructions and procedures issued by the federal authority, in accordance with the following conditions: First: The lawsuit shall meet the conditions stipulated in Article (20) of this Law)), and whereas the interest that must be available to file the case before

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this court in accordance with the provisions of Article (20/1<sup>st</sup>) of the Court's Rules of Procedure is required to be a case, direct and influential on the legal, financial or social status of the plaintiff, provided that it is available from the filing of the lawsuit until the issuance of a judgment thereon, and that such interest under the aforementioned conditions is not achieved in a lawsuit the plaintiff, which requires to reject due to the lack of the interest condition necessary for its establishment, noting that the jurisdiction of this court referred to in Article (93/3<sup>rd</sup>) of the Constitution, and Article (4/3<sup>rd</sup>) of the Court Law No. (30) of 2005, as amended by Law No. (25) of 2021 related to the adjudication of cases arising from the application of federal laws, and that jurisdiction does not go to oblige the application of federal laws without adjudicating cases arising from their application, and for the foregoing, the Federal Supreme Court decided the following:

First: Ruling on rejecting the plaintiff Azad Abdul Hamid Ahmed's lawsuit, due to the lack of interest condition necessary for its establishment.

Second: Charging the plaintiff the expenses, fees and attorneyship fees of the defendants' agents / being in their capacity in an amount of one hundred thousand dinars distributed in accordance with the law.

The judgment has been issued unanimously, final and binding on all authorities based on the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2<sup>nd</sup>). of the Federal Supreme Court Law No. (30) of 2005, as amended by Law No. (25) of 2021, and it has been made clear on 2 Dhu al-Hijjah 1445 A.H. corresponding to 9/6/2024 AD.

**Judge**

**Jasem Mohammad Abbood**  
**President of the Federal Supreme Court**

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