

In the name of God most Gracious most Merciful

Republic of Iraq  
Federal supreme court  
Ref.10/federal/2021



Kurdish text

---

The Federal Supreme Court (F.S.C.) has been convened on 25.4.2021 headed by the Judge Jasem Mohammad Abbood and the membership of the judges Sameer Abbas Mohammed, Ghaleb Amer Shnain, Haidar Jaber Abed, Haider Ali Noory, Khalaf Ahmad Rajab, Ayoub Abbas Salih, Abdul Rahman Suleiman Ali, and Diyar Muhammad Ali whom are authorized to judge in the name of the people, they made the following decision:

#### The Request:

The judge of Investigation Court of al-Mosul/Left request from FSC under the letter No. (7626/2021) on 1/4/2021 appointing the competent court to hear the investigative case of the accused Ayman Mazen Mohamed and his group in accordance with the provisions of Article (5) of the Human Organ Transplantation and Prevention of Trafficking Law No. (11) of 2016 (amended), the subject of which is (accused Ayman Mazen Mohamed Ibrahim sells an organ of his (kidney) in cooperation with a group of accused by selling his kidneys and trying to sell his wife's kidneys, Shahad Yasser Hazem's in the city of Erbil) according to the article (93/8<sup>th</sup>/alif) of the Constitution of the Republic of Iraq of 2005. The request under scrutiny and deliberation by the FSC and reached the following decision:

## The Decision:

After scrutiny and deliberation by the FSC found that on date 13/10/2020 the judge of Investigative court of al-Mosul/Left decided, based on the report presented by the Division of Combating Human Trafficking and Human Organs, to refer the case to the Erbil Investigation Court to complete its investigation, according to venue jurisdiction based on the provisions of Article (53) of the Criminal Procedures Law No. (23) of 1971 (amended). On date 11/1/2021 the judge of the Erbil Investigation Court decided to return the investigation papers to the Investigative court of al-Mosul/Left to complete the investigation the fact that the case was registered on 27/6/2019 with the Investigation Court of al-Mosul and the latter has come a long way in it. On date 24/3/2021 the judge of Investigative court of al-Mosul/Left presenting the subject to the FSC to determine the spatially competent court complaint according to the provisions of article (93/8<sup>th</sup>/alif) of the Constitution considering that the return of the Erbil Investigation Court, the investigative papers are considered to be rejected. After scrutiny found that the date 27/6/2019 the complainant (Najla Jalil **Waker**) attended to the Assyrian police station, her statements were recorded and the complaint was requested against the complainant (Ayman Mazen Muhammad), husband of Shahad Yasser Hazem's daughter, for taking her mentioned daughter to the governorate of Erbil and conducting medical examinations for her for the purpose of selling her kidneys, and she withdrew the documents of her daughter to prevent this, on the same date, she appeared before the judge of the Investigative Court of al-Mosul/Left, and her statements were recorded by the competent judge and repeated her statements, adding that the defendant (Ayman Mazen Muhammad) sold his kidney three months ago. The complainant, Shahaa Yasser Hazem, attended and wrote down her statements and requested the complaint against the accused Ayman Mazen Muhammad

and the rest of the accused. On this date, the mentioned accused was arrested, and on 16/9/2019, the other accused, Mazen Muhammad Ibrahim, was arrested and they were arrested in accordance with Article (17) of the Human Organ Transplantation and Prevention of Trafficking Law No. (11) of 2016 (amended) they were released on a financial bail, therefore, and since the crime is in accordance with the description contained in the cassation decision issued by the Nineveh Criminal Court/ Second Commission No. (316/teh2/2020) on 9/8/2020 containing (considering this case concerning the complainant (Shahad Yasser Hazem) and the defendants Ayman Mazen Muhammad and Mazen Muhammad Ibrahim for the crime of agreeing to sell the kidney of the complainant above in accordance with Article (56) of the Penal Code, the fact that the crime was not completed, but an agreement has been reached (it took place in the city of al-Mosul and that the spatial jurisdiction is in accordance with what is included in Article (53) of the Criminal Procedure Law No. (23) of 1971 (amended) it is determined by (the place where the whole crime or part of it occurred or any act complementing it or any consequence resulting from it, as well as the location in which the victim was found). On the one hand, and on the other hand, the Investigation Court of al-Mosul has gone a long way in the investigation, and the investigation is in its final stages, therefor the FSC decided to considering the Investigation Court of al-Mosul/Left as the competent court to venue investigate the research topic, and the Judge of Investigative court of Erbil was notified of this, the referral must be rejected if it appears to him that he is not competent and the subject is presented to this court to determine the venue competent court and the decision was issued by unanimously, decisively and binding on all authorities based on the provisions of Articles (93/8<sup>th</sup>/alif) and (94) of the Constitution and the articles (4/8<sup>th</sup>/alif) and (5/2<sup>nd</sup>) of FAC's Law No. (30) of 2005 (amended) on 25/4/2021.