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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 Mosul Investigation Court /left side, requested the Federal Supreme Court in the letter no.(7627/2021) on 1.4.2021 to appoint the competent court in venue to consider the investigation lawsuit of the accused who payed the bail (Ghasan Edreis Shaheen) according to the articles of the Law of Human Organ Transplantation and the prevention of trafficking in it no.(11) of 2016 amended, it subject is that (trafficking in human organs in participation with group of accused whom their cases are separated from this lawsuit) according to the provisions of article (93/8<sup>th</sup>/a) of the Constitution of Iraq for 2005.

The case has been set under scrutiny and deliberation by the F.S.C. and it decided the following:

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**The decision:**

During scrutiny and deliberation by the F.S.C., it found that on 11.10.2020 the judge of Investigation in Mosul left side decided based on the report submitted by the division of Combating Human and Human Organs Trafficking, to refer the lawsuit of the accused Ghasan Edreis Shaheen to Erbil Investigation Court to complete its investigation according to the venue jurisdiction according to the provision of article (53/alif) of the Criminal Procedures Law no.(23) of 1971 amended, on 21.1.2021 the Investigation judge in Erbil court decided that as the complaint was registered before Mosul Investigation Court in 16.6.2019, and it investigate in it and reached advanced stages, therefore he decided to return the investigation documents to Mosul Investigation Court to complete the investigation in it according to the provision of article (53/alif) of the Criminal Procedures Law. On 24.3.2021 the judge of Mosul Investigation Court /Left Side decided to present the subject on the F.S.C. to decide the competent venue court to consider the lawsuit, considering that the decision of Erbil investigation court of returning the investigation documents is an refusing of the referral decision. During scrutiny the F.S.C. founds that on 29.6.2019 a secret informant came to the Anti-Organized Crime Directorate in Nineveh, whose statement was transcribed, he reported that there are a number of suspects who trade in human organs and that they

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are transferring people from the city of Mosul to Erbil to implement this, and that the aforementioned persons are victims of what the above accused are committing, and that the accused (Ghasan Edreis Shaheen) brings forged personal status identity documents to the aforementioned persons to complete the sale of their human organs, on 16.6.2019 came to the same directorate claiming personal right Nagham Daham Idris and wrote down her statements, the complainant's mother, Haider Wahid Haider, stated that after the terrorist gangs of ISIS took control of the city of Mosul, the accused (Yasser Sheikho), who had a relationship with her children, left the aforementioned plaintiff and settled in the city of Zakho, he communicates with her children and asks them to come to the city of Erbil because there is work in the carpet factory that belongs to his brother. Indeed, the aforementioned son went to Erbil, later, she discovered that he had undergone surgery to remove his kidney, after he was transferred to the (Zain International Hospital) in Erbil for an amount of seven million dinars, and she confirmed the same statement before the Mosul Investigation Court/ left. The statement of the complaint Haider Wahid Haider was noted by the same directorate and the same court and he confirm the same statements, according to what mentioned in the investigation, the Mosul investigation court /left on 23.6.2019 issued arresting order against the accused (Ghasan Edreis Shaheen) under the provision of article (5) of Anti-human

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Trafficking Law no.(28) of 2012 under the name of (Jemal Edreis Shaheen), on 28.11.2020 the statements of the mentioned accused was noted under consideration that he is arrested of another lawsuit and postponed deciding his fate in this case, he stated that the accused (Zeen Alabeden Fadhel Abas) works in trafficking in human organs in Erbil, and that he know him and in light of that he transfer the people that they sell their human organs from place to another in Erbil, and also he transport them from Mosul City to Erbil, therefore, as article (53/alif) of the Criminal Procedures Law stated that (the jurisdiction of the investigation 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 or an act that is part of a complex, continuous or consecutive crime or a habit crime, and it is also determined by the place in which the victim was found or where the money was found which the crime was committed about it after it was transferred to it by the perpetrator or a person knowing about it). The F.S.C. finds that the Erbil Investigation Court is the competent court in venue to consider the lawsuit, and that its decision dated on 21.1.2021 is not authentic and violates the law, as it should have refuses the referral decision, and to presents the subject on the F.S.C. if it sees that it is not competent to investigate, in order to specify the venue competent court to consider the lawsuit according to the provision of article (93/8<sup>th</sup>/a) of the

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Constitution of 2005. the court finds that the law that applies the most to the criminal description of the accused's act is the Law of Human Organ Transplantation and the prevention of trafficking in it no. (11) of 2016 (amended). Therefore, the F.S.C. decided to consider the Erbil Investigation Court is the competent court to investigate in venue in the lawsuit subject of decision, and to notify the Mosul left Side Investigation Court about it. This decision has been issued unanimously, final, and binding on all authorities according to the provisions of articles (93/8<sup>th</sup>/a) and (94) of the Constitution of Iraq of 2005, and articles (4/8<sup>th</sup>/alif) and (5) of the amended Federal Supreme Court's law no.(30) of 2005, on 25.4.2021.

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