



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 left Side Investigation Court, requested the Federal Supreme Court in the letter no.(7628/2021) on 1.4.2021 to appoint the competent court in venue to consider the lawsuit of the accused who payed the bail (Rayan Mahmmod Salih) according to the provision of articles of the Law of Human Organ Transplantation and the prevention of trafficking in it no. (11) of 2016 amended, it subject is that (the mentioned accused in participation with others accused whom their cases are separated from this one, has trafficked in the human organs), according to the provisions of article (93/8th/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 13.10.2020 the judge of Mosul left side Investigation decided to refer the lawsuit of the accused (Rayan Mahmmod Salih) to Erbil Investigation Court to complete its investigation because the incident occurred in Erbil city according to the provision of article (53/alif) of the Criminal Procedures Law no.(23) of 1971 amended, on 14.1.2021 the Investigation judge in Erbil court decided that as the case was registered before Mosul Left Side Investigation Court in 29.1.2020, and it reached advanced stages in it, and that the venue jurisdiction is not part of the general order, therefore he decided to return the investigation documents to Mosul left side 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 Left Side Investigation Court decided to present the subject on the F.S.C. to decide the competent venue court to consider the lawsuit, considering the decision of returning it from Erbil Investigation Court is refusing of the referral decision according to the provision of article (93/8th/a) of the Constitution. on 4.2.2020 Mosul Right Side Investigation Court issued an order to arrest the accused (Rayan Mahmmod Salih) because an info stated that the mentioned accused work in human organs trafficking in participation with other accused whom their cases are separated from this case. on 4.2.2020 the

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mentioned accused were arrested according to the provision of article (17) of the Law of Human Organ Transplantation and the prevention of trafficking in it, their statements was noted by the investigator and by the Investigation court mentioned above, he stated that on 2012 he had sold his kidney in Erbil city in Azady hospital for an amount of ten thousand US dollars, and after that he partnered with other accused for the purpose of bringing people and persuading them to sell their kidneys. Therefore, the F.S.C. finds that the venue jurisdiction according to the provision of article (53/alif) of the Criminal Procedures Law no.(23) of 1971 (amended) which 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)) is for Erbil investigation court under the consideration that the place where the crime occurred is Erbil governorate, and that the decision of last court of returning the investigation documents to Mosul left side investigation court is not authentic and violates that 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

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investigate, in order to specify the venue competent court to consider the lawsuit according to the provision of article (93/8th/a) of the Constitution of 2005, and article (53/alif) of the Criminal Procedure Law no.(23) of 1971 amended. 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) according to the penalty articles listed in it. Accordingly, 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 (93/8th/a) and (94) of the Constitution of Iraq of 2005, and articles (4/8th/alif) and (5/2nd) of the amended Federal Supreme Court's law no.(30) of 2005, on 25.4.2021.

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