

Republic of Iraq
Federal Supreme Court
Ref. 53 / federal /2021



Kurdish text

The Federal Supreme Court (F S C) has been convened on 7/7/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Hayder Jabir Abid, Hayder Ali Noori, Khaled Ahmed Rajab, Ayoob Abbas Salah, Abdul-Rahman Suleiman Ali, and Dyar Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The requestor of determining the competent Court- the investigation Court of Nineveh.

The Request

On 31 May 2021, the Nineveh Court of investigation judge requested from the Federal Supreme Court to appoint the competent court to hear the investigative case of the accused (Salman Yahya Salman Abboud Al-Obaidi) in accordance with article 17 of the Human Organ Transplantation and Trafficking Prevention Act No. (11) of 2016. When examined, it was found that the accused in this case (Salman Yahya Salman) from Mosul residents of the Al-Tahrir neighborhood and in 2019 admitted that a relative named Akram Basel Salman sold his kidney after he identified one of the people selling human organs, the so-called (hakam) from the residence of Mosul city area Wadi Hajar, the two men offered to sell his kidney for 9,000,000 million dinars, agreed to do so, then left for Erbil and exposed to surgery in one of its hospitals, his kidney was lifted and he received the agreed allowance and returned to Mosul, and as a result of the investigation of several defendants by the Mosul Court of investigation, Mr. Al-Qadi issued an arrest warrant in

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the said court (Salman Yahya Salman) on 31/1 2/2019 Following article (17/1st) of the Human Organ Transplants Law No. (11) of 2016 and on 5 January 2020 he was arrested and detained for this reason. He was then released from detention on bail by a person from Mosul on 27 January 2020 and after completing his investigation, he was referred to the Nineveh Criminal Court, the second body, by the decision of referral numbered 510/2020 on 5 May 2020 and issued The Criminal Authority issued its decision on 646 /Jim/2020 on 3 September 2020 to intervene in recognition of the decision to refer and overturn it and return the investigative case to the Mosul/Left Court of investigation to refer it to the Erbil Court of investigation to complete its investigation as the surgery was conducted For the accused to raise his kidney in the hospitals of Erbil city. Following the aforementioned decision, the Mosul/Left investigating judge decided to refer it to the Erbil Court of investigation to complete its investigation in accordance with the provisions of article (53) fundamentalism, and on 23 February 2021 the Erbil investigating judge decided to refuse to refer and return the case to The Mosul/Left Investigative Court to complete the investigation and on 23 May 2021, the Nineveh investigating judge decided to present the order to this court to determine the competent judge for a dispute of jurisdiction between the federal judiciary in Mosul and the judicial bodies in The Kurdistan region of Iraq. The case was sent to this court and recorded in the number (53 /federal/ 2021). The request was placed under scrutiny and the Court issued the following decision:

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The decision:

Upon scrutiny and deliberation by the Federal Supreme Court, it was upheld that part of the crime attributed to the accused (Salman Yahya Salman) in which he agreed with the accused to sell his kidney occurred in Mosul and that the venue jurisdiction of the investigation is determined by the location or any part of the crime, any complementary act or any result resulting from it in accordance with the provisions of article (53/1) of the Criminal Procedure Law No. (23) of 1971 amended. Part of the crime attributed to the accused was committed in Mosul. The Mosul/Left Investigation Court has come a long way with the investigative procedures as it has begun to investigate since the recording of the statements of the secret informant and until the completion of the investigation of the accused and his release on bail of a person from Mosul city as well, and then referred him to the Nineveh Criminal Court, and therefore its investigative procedures were not contrary to the rules of venue jurisdiction, and all of the above the Federal Supreme Court decided to consider the judge of the Nineveh Court of investigation competent to complete the investigation in the case of the accused (Salman Yahya Salman) and notice The judge of the Erbil Court of investigation in this way and the request of this court to appoint the competent judicial body when he considers that he has no jurisdiction to complete the investigation of the investigative case referred to him by one of the judicial authorities in the federal judiciary, the referral cannot be rejected and returned to its court, and the decision was issued by agreement in accordance with the provisions of articles (93/8th/Alif and

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94) of the Constitution of the Republic of Iraq for 2005 and article (4) of the Federal Supreme Court Law No. (30) of 2005 amended by Law No. (25) for the year 2021. The decision has been made clear on 26/Dhul Qida/1442 Hijri coinciding 7/July/2021 AD.

Signature of The president	Signature of The member	Signature of The member
Jasem Mohammad Abbood	Sameer Abbas Mohammed	Haidar Jaber Abed
Signature of The member	Signature of The member	Signature of The member
Haider Ali Noory	Khalaf Ahmad Rajab	Abdul Rahman Suleiman Ali
Signature of The member	Signature of The member	Signature of The member
Diyar Muhammad Ali	Ghalib Amir Shunayen	Ayoob Abbas Salah

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