



The Federal Supreme Court (F.S.C.) was convened on 21.6.2021 headed by 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, who are authorized to judge in the name of the people, they made the following decision:

The party requesting to appoint the competent court:

Ninawa Investigation Court.

The Request:

the judge of the Ninawa Investigation Court, requested the Federal Supreme Court in letter No. (9533) on 31.5.2021 to appoint the court with venue jurisdiction to consider the lawsuit of the accused who pay the bail (Rayan Mahmood Salih), according to the provision of the article (17) of the Human Trafficking Law, its subject is human organ trafficking, he based his request on the provisions of article (93/8th/a) of the Constitution of Iraq for 2005. The request has been set under scrutiny and deliberation by the F.S.C. and it decided the following:

The decision:

Athraa



During scrutiny and deliberation by the F.S.C., it found that on 11.10.2020 the judge of left Mosul Investigation Court decided to refer the investigation papers of the accused who paid the bail (Rayan Mahmood Salih) according to the provision of the article (17) of the Human Trafficking Law, to Erbil Investigation Court to complete the investigation according to the venue jurisdiction according to the provisions of article (53/alif) of the amended Criminal Procedure Law No. (23) of 1971, on 6.4.2021 the judge of Erbil Investigation Court decided to return the investigation papers to the Mosul Investigation Court, because the case was registered before Mosul Investigation Court on 29.1.2020 and that the investigation in it has reached advanced levels (and that the case was previously referred to Ninawa Criminal Court/ second committee which decided in its rule No. (370 / teh/ 2020) on 25.8.2020 to revoke the referral decision and to return it to its court). On 23.5.2021 the judge of Ninawa Investigation Court decided to present the issue on the F.S.C. to decide the court with venue jurisdiction to consider the lawsuit according to the provision of the article (93) of the Constitution of 2005. As the facts of the case are summarized in that on the date 29.1.2020 the investigation court of the right Mosul writes the statements of the secret informant No. (29) and his statement mentioned that he had information about people who are trafficking in human organs, the surgical operations for this are carried out in the provincial hospitals of the Kurdistan Region of Iraq and that the agreement between the accused is taking place in the city of Mosul.

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 56 / federal / 2021



Kurdish text

He also has information about other groups that trade in drugs and promotes the sale of frozen dollars. on 4. 2.2020 the judge of the right Mosul Investigation Court issued an arrest warrant based on the reading submitted to him by the Cars Anti-Theft of Division against the accused (Rayan Mahmood Salih) in accordance with the provisions of Article (17) of the Law of Human Trafficking no. (28) of 2012, his statements were written down, he stated that on 2012 he sold his kidney for a sum of ten thousand US dollars, and the operation was performed on him in Azadi Hospital in Erbil, and then he worked with a group of accused of trafficking in human organs by bringing people from Mosul to the provinces of the region after they are persuaded to sell their kidneys, and the agreement is made in Mosul in exchange for a financial commission. As the venue jurisdiction is determined in accordance with the provisions of the article (53/alif) of the amended Criminal Procedure Law No.(23) of 1971, which stipulates that (the jurisdiction of the investigation is determined by the place where the whole crime occurred, or part of it, or any act complementing it, or any result of it, or an act that is part of a complex, continuous, or sequential crime, or one of the crimes of habit, also determined by the place where the victim was found, or the money in which the crime was committed after it was transferred to him by the perpetrator or a knowledgeable person), accordingly, because the case was registered before Mosul Investigation Court on 29.1.2020 and the agreement between the accused is happens in the city of Mosul and that the investigation in it

Athraa



has reached advanced levels, therefore, the Nineveh Investigation Court is the court competent to conduct the investigation, on the other hand, the Law of Anti-Human trafficking No.(28) of 2012 contain only (14) articles, but the Law No.(11) of 2016 is the Law of Human Organ Transplantation and the prevention of trafficking in it, as stated in the letter of referring the lawsuit that the investigation occur according to the provision of article (17) of the Human Trafficking Law, and as mentioned in the cassation decision issued from Ninawa Criminal Court on 25.8.2020 in its preamble that the accused (Rayan Mahmood Salih Alesh) is under arrest to conduct his trial according to the provision of article (17) of the Human Trafficking Law No.(11) of 2016, whereas the mentioned accused was released on 30.3.2020, also, the Human Trafficking Law number is (28) of 2012 not (11) of 2016. Accordingly, for the aforementioned, the F.S.C. decided to consider the Ninawa Investigation Court as the court with venue jurisdiction to investigate in the lawsuit of the accused (Rayan Mahmood Salih Alesh), and to notify the Erbil investigation court about it. And that the decision of Erbil investigation court dated 6.4.2021 which included returning the investigation paper to Mosul investigation court is not authentic and contrary to the law, he should have considered the provisions of Article (93/8th/alif) of the Constitution and submit the matter to the Federal Supreme Court to determine the competent court in the venue if it appears to him that he is not competent to consider it, not to decide to return it to the Investigation Court of Mosul. This

Athraa

Republic of Iraq
Federal Supreme Court
Ref. 56 / federal / 2021



Kurdish text

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, 5) of the Federal Supreme Court's law No. (30) of 2005 amended with the law No. (25) of 2021, on (10. Dhul-Qidah. 1442) AH., (21.6.2021) A.D.

Signature of
The president

**Jasem Mohammad
Abbood**

Signature of
The member

Haidar Jaber Abed

Signature of
The member

Ayoub Abbas Salih

Signature of
The member

**Sameer Abbas
Mohammed**

Signature of
The member

Haider Ali Noory

Signature of
The member

**Abdul Rahman
Suleiman Ali**

Signature of
The member

**Ghaleb Amer
Shnain**

Signature of
The member

Khalaf Ahmad Rajab

Signature of
The member

**Diyar Muhammad
Ali**

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