



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:**

During scrutiny and deliberation, it found that the judge of the Ninawa Investigation Court requested the Federal Supreme Court in letter No. (9538) on 31.5.2021 to appoint the court with venue jurisdiction to investigate the lawsuit of the accused who pay the bail each of (Intisar Daham Talab Suleiman, and Hana Daham Talab Suleiman, and Ahmed Hassan Taha Ahmad, and Fahd Ahmad Ayyash Khalaf), according to the provision of the article (17) of the amended Law of Human Organ Transplantation and the prevention of trafficking in it no. (11) of 2016, the lawsuit registered before this court by the No. (60/ federal/2021) its subject is trafficking of a human organ, the investigation court of Ninawa based its request on the provisions of article (93/8<sup>th</sup>/a) of the Constitution of Iraq for 2005.

*Athraa*



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

**The decision:**

During scrutiny and deliberation by the F.S.C., it found that on 26.11.2020 the Investigation Court of left Mosul has decided to refer the investigation case of the accused who paid the bail each of (Intisar Daham Talab Suleiman, and Hana Daham Talab Suleiman, and Ahmed Hassan Taha Ahmad), and the accused deferred to decide his fate (Fahd Ahmad Ayyash) to Erbil Investigation Court to complete the investigation according to the venue jurisdiction, on 7.2.2021 the judge of Erbil Investigation court decided to return the investigation papers to the Mosul Investigation Court to complete the investigation, because the case was registered before Mosul Investigation Court on 9.9.2020 and that the investigation in it has reached advanced levels and that venue jurisdiction is not of general order. On 23.5.2021 the judge of Ninawa Investigation Court decided to present the investigation paper on the F.S.C. to decide the court with the competent venue to consider the lawsuit according to the provision of the article (93/8<sup>th</sup>/a) of the Constitution of 2005. the facts of the case are summarized in the fact that on the date 9.9.2020 the accused, Ahmed Hassan Taha, was arrested by the Nineveh Anti-Crime Directorate and was arrested according to the provision of Article (17) of the amended Law of Human Organ Transplantation and the prevention of trafficking in it no. (11) of 2016, his statements

*Athraa*



were written down, he stated that in 2019 he used to visit the defendants' home (Intisar and Hana daughters of Daham Talab) and offered them to sell his kidney, and he went to the city of Dohuk with the son of their sister the accused (Fahd Ahmad Ayyash), and after conducting the tests for him at (Fujian) the civil hospital, the tests did not match the person who wanted to buy, then he went to Sulaymaniyah and the operation was done he had his kidney removed after communicating with a person by selling it to him for an amount of ten million Iraqi dinars. The statements of the accused, (Fahd Ahmed Ayyash), were written down and he stated that in 2015 he sold his kidney in the Erbil governorate to a person for a sum of twelve million Iraqi dinars. The statements of the accused (Intisar and Hana the daughters of Daham Talib) were written down, they stated that the accused (Ahmed Hassan Taha) came to their home in Mosul, the accused, (Fahd Ahmed Ayyash) was present, and that the accused, (Ahmed Hassan Taha), was convinced to sell his kidney, after hearing that the accused, (Fahd Ahmed Ayyash), had previously sold his kidney and he is in good health. Therefore, the court finds that the investigation into the case has been going on for a long time, and that the Mosul Investigation Court has begun to conduct it on 9.9.2020 and that the agreement between the defendants in Mosul, and the venue jurisdiction is determined in accordance with the provisions of the article (53/alif) of the Code of Criminal Procedure No. (23) of 1971, which stipulates that (the jurisdiction of the investigation is determined by the place where the whole crime

*Athraa*



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) therefore, the Nineveh Investigation Court is the court with the competent venue to conduct the investigation. Accordingly, the F.S.C. decided to appoint the Ninawa Investigation Court as the competent venue court to investigate in the lawsuit subject of the accused (Ahmed Hassan Taha Ahmad, and Fahd Ahmad Ayyash, and Intisar Daham Talab, and Hana Daham Talab), according to the provision of the article (17) of the amended Law of Human Organ Transplantation and the prevention of trafficking in it No. (11) of 2016, and to notify the Erbil investigation court about it, with consideration that the judge of the Erbil Investigation Court is obligated to consider the provisions of Article (93/8<sup>th</sup>/alif) of the Constitution if it appears to him that he is not competent to conduct the investigation referred to him, then he must submit the matter to the Federal Supreme Court to determine the competent court in the venue, not to decide to return it to the Investigation Court of left Mosul. 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, 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.

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Republic of Iraq  
Federal Supreme Court  
Ref. 60 / federal / 2021



Kurdish text

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Signature of  
The president

**Jasem Mohammad  
Abbood**

Signature of  
The member

**Sameer Abbas  
Mohammed**

Signature of  
The member

**Ghaleb Amer  
Shnain**

Signature of  
The member

**Haidar Jaber Abed**

Signature of  
The member

**Haider Ali Noory**

Signature of  
The member

**Khalaf Ahmad Rajab**

Signature of  
The member

**Ayoub Abbas Salih**

Signature of  
The member

**Abdul Rahman  
Suleiman Ali**

Signature of  
The member

**Diyar Muhammad  
Ali**

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*Athraa*