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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. (9539) on 31.5.2021 to appoint the court with venue jurisdiction to consider the lawsuit of the accused who pay the bail each of (Samir Abdel Hamid Ramadan, Samah Ehsan Salman, Shukor Mahmoud Marei, and Ahmed Qais Ahmed) 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. (61/ federal/2021), the investigation judge has based in his request on the provisions of article (93/8<sup>th</sup>/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:

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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 Investigation Court has decided to refer the investigation papers of the accused who paid the bail each of (Samir Abdel Hamid Ramadan, Samah Ehsan Salman, Shukor Mahmoud Marei, and Ahmed Qais Ahmed) to Erbil Investigation Court to complete the investigation according to the venue jurisdiction of the crime in Erbil, on 6.4.2021 the judge of Erbil Investigation decided that as the case was registered before Mosul Investigation Court on 8.3.2020 and that the investigation has reached advanced levels, returned the investigation papers to the Mosul Investigation Court to complete the investigation. 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 and article (53/alif) of the amended Criminal Procedures Law No. (23) of 1971. This court finds that the facts of the case are summarized in the fact that on the date 19.12.2019 the investigation court of the right Mosul codified the statements of the secret informants No. (27 and 28) and their statements mentioned that they had information about people who sold their human organs in the city of Erbil and that there are people who trade in human organs by persuading some of the people of the city of Mosul to do so. After that, they are transferred to Erbil or Dohuk, and the surgery is performed for them in the hospitals of

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these two cities, according to the agreement between the seller and the buyer (the patient who needs to buy the human organ), on 30.12.2019 the sentinel judge issued to the Mosul Investigation Court an arrest warrant against the accused (Ahmed Qais Ahmed) and on 31.12.2019 the same body issued an arrest warrant against the accused (Samir Abdel Alhameed Ramzan and Shukr Mahmoud Maree), in accordance with the provisions of Article (17) of the amended Law of Human Organ Transplantation and the prevention of trafficking in it no. (11) of 2016, on the same date an arrest warrant issued against the accused (Samah Ehsan Salman) by the Right Mosul Investigation Court according to the same article, and on the date 31.12.2019 the statements of the accused (Samir Abd alhameed Ramzan) were written down, said that he knows the accused who trade in human organs and they are (Tariq Muhammad Amin, Adnan Abdul Hamid Ramzan and Samir Saber Hassan), and they bring people from Baghdad or Mosul and convince them to sell their kidneys, their documents are forged for the aforementioned purpose, and that his role is limited only to transporting the mentioned people from Mosul to the provinces of the region in his car in return for an amount of (150) thousand dinars for each trip. On 1.1.2020 the statements of the accused, Samah Ihsan Salman Abd, were written down by the judge in the Mosul Investigation Court, and he said that he had known the accused, (Shukr Mahmoud Maree) and offered on him and the accused (Qassem Yahya Salman) to search for people who sell their kidneys, and they will be given their

*Athraa*



commission for that, and indeed they did this, several people were taken for the aforementioned purpose, including the accused, Ahmed Qais Ahmed, who was transferred to Dohuk for a surgical operation after he agreed to sell his kidney. On 5.1.2020 the statements of the accused (Shukr Mahmoud Marei) were written down, and he stated that he knew the fugitive, Samir Sabry Hassan, who is a dealer in human organs. He went with him to the house of the accused, Qassem Yahya Salman, where he was persuaded to sell his kidney. On the date 31.12.2019 the statements of the accused, Ahmed Qais Ahmed, were written down, and he stated that a year ago he had sold his kidney for twelve million Iraqi dinars and went with the accused Samah Ihsan Salman to the city of Dohuk, and the operation was performed to him in Azadi Hospital. And for the foregoing, since the Mosul Investigation Court began the investigation on 19.12.2019 into this by transcribing the statements of secret informants No.(27 , 28) and on the other hand, the venue jurisdiction is determined in accordance with the provisions of the article (53/alif) of the Code of Criminal Procedure, 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), since the agreement between the accused is happens in the

*Athraa*



city of Mosul, therefore, the Nineveh Investigation Court is the court competent to conduct the investigation, 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 of 2005 if it appears to him that he is not competent to conduct the investigation, then he must submit the matter to the Federal Supreme Court to determine the competent court in venue, not to decide to return it to the referring court, and thus the decision to return it is invalid and contrary to the law. Accordingly, the F.S.C. decided to appoint the Ninawa Investigation Court as the competent venue court to investigate in the lawsuit subject of a decision of the accused (Samir Abdel Hamid Ramadan, Samah Ehsan Salman, Shukor Mahmoud Marei, and Ahmed Qais Ahmed) 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. 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) and (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.

*Athraa*

Republic of Iraq  
Federal Supreme Court  
Ref. 61 / 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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