



The Federal Supreme Court (F.S.C.) was convened on 21.6.2021 headed by Judge Jasem Mohammad Abboud 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 by the Federal Supreme Court it found that the judge of the Ninawa Investigation Court requested in the letter issued from the last Court No. (9540) on 31.5.2021 to appoint the court with venue jurisdiction to consider the lawsuit of the accused who pay the bail each of (Khaled Mohsen Ahmed, Qasim Yahya Salman Abboud, Ahmed Qais Ahmed Fatehi), 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. (62/Federal/2021) of the Iraqi constitution of 2005, the judge 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:

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The decision:

during scrutiny and deliberation by the F.S.C., it found that on 3.11.2020 the judge of left Mosul Investigation Court decided to refer the investigation papers of the accused (Khaled Mohsen Ahmed, Qasim Yahya Salman Abboud, Ahmed Qais Ahmed) to Dohuk Investigation Court to complete the investigation according to the venue jurisdiction, under the consideration that the incident of (trafficking in human organs) happened in Dohuk governorate, after submitting the investigation papers to Dohuk Investigation Court' judge, on 23.12.2020 he decided to address the general directorate of health of Dohuk governorate to ensure that the accused, the subject of the papers, had a kidney lift operation in the governorate hospitals, the letter from the aforementioned directorate has been received from the legal affairs/ property division No.(1041) on 25.1.2021, which includes that (Khaled Mohsen Ahmed) made a kidney donation according to the data sent by the Kidney Disease Center in Dohuk, as for the accused (Qasim Yahya Salman Abboud, Ahmed Qais Ahmed) no kidney donation operation was performed for them in public and private hospitals in Dohuk, because the committee concerned with kidney donation is unified in all hospitals. after proceeding with the investigation and the occurrence of the accident in the city of Mosul, he decided to refer the investigative papers to the Mosul Investigation Court under the provision of the article (53/Jim) of the Criminal Procedures Law. On 23.5.2021 the judge of Ninawa Investigation Court decided according to the provision of the article

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(93/8th/a) of the Constitution of 2005 and article (53/alif) of the Criminal Procedures Law, to present the issue on the F.S.C. to appoint the court with venue jurisdiction to consider the lawsuit. This court finds that the case is summed up in the fact that on the date 19.12.2019 the investigation court of the right Mosul writes down the statements of the secret informants No. (27 and 28) and they said that they had information about people who trade in human organs, where those who wish to sell their kidneys are brought and transported to the provinces of the region, after the agreement between the seller and the patient who buy, surgical operations are performed to implement this in the hospitals of the mentioned governorates, and those who trade have a percentage of the agreed amount, on 22.12.2019 the statements of witness (Louay Taher Kazem) were written down by the same court, and his statements were not linked in the investigative papers. On the date 1.1.2020 the statements of the accused (Khaled Mohsen Ahmed) were written down by the on-duty judge of the Mosul Investigation Court, he stated that he had known the accused (Ahmed Qais Ahmed, Qasim Yahya Salman, Samir Saber Hassan) and he was persuaded by them to sell his kidney due to his poor financial condition, and he agreed to that in return for an amount of ten million Iraqi dinars, he was accompanied with them to Dohuk and the operation was performed for him in Azadi Hospital. On 4.1.2020 the statements of the accused (Qassem Yahya Salman Aboud) were written down, he stated that he knew the accused who trade in human organs, including the accused (Shukr Mahmoud

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Marei) and the accused (Samir Saber), and they offered to sell his kidney. He went to the city of Erbil with the accused, (Samir Saber), and medical examinations were conducted for him, but he has not been operated on. The statements of the accused (Ahmed Qais Ahmad) were written down he stated that the accused (Khaled Mohsen Ahmed) is his friend, he lives with him in the same area, and he persuaded him to sell his kidney and he agreed to that, and they went to the governorate of Dohuk and a kidney transplant was performed for the accused (Khaled Mohsen) and he did not receive any money as a result of that. this Court finds that the Mosul Investigation Court started the investigation on 19.12.2019, on the other hand, the venue jurisdiction is determined in accordance with the provisions of the article (53/alif) of the Criminal Procedure Law No.(23) of 1971 ,amended, 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 city of Ninawa, therefore, the Ninawa Investigation Court is the court competent to conduct the investigation, and that the decision of the judge of Dohuk Investigation Court of referring the investigation papers to Mosul Investigation Court after initiating the investigation

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in it is not right and contrary to the law, he should have considered the provisions of Article (93/8th/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. 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 (Khaled Mohsen Ahmed, Qasim Yahya Salman Abboud, 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 Dohuk 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) 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.

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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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