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The Federal Supreme Court (F.S.C.) convened on 23.6.2021 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. (10385) on 14.6.2021 to appoint the court with venue jurisdiction to consider the criminal lawsuit presented before it of the accused who pay the bail each of (Ahmed Qais Ahmed Fathi Al Badrani and Qassem Yahya Salman Aboud Al-Obaidi), 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, its subject is human organ trafficking, the judge based his request on the provisions of article (93/8<sup>th</sup>/a) of the Constitution of Iraq for 2005, as there is a conflict of jurisdiction between the aforementioned court and the Dohuk Investigation Court, as it is affiliated with the judicial authorities in the Kurdistan region.

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

**The decision:**

after 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 to Dohuk Investigation Court to complete the investigation under the supervision of the competent judge according to the venue jurisdiction in accordance with the provisions of article (53/alif) of the Criminal Procedure Law, under the consideration that the incident of trafficking in human organs (selling and buying kidneys) happened in Dohuk governorate, after submitting the dossier of the criminal lawsuit to Dohuk Investigation Court, on 16.5.2021 the judge of Dohuk Investigation Court decided to return the investigation papers to the Mosul Investigation Court, to complete the investigation under the provision of the article (53/Jim) of the Criminal Procedures Law. On 8.6.2021 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, by scrutiny and deliberation and reviewing the case facts and circumstances, and noting the testimonies of the concerned persons, especially the accused, it is clear that these facts are summarized in an agreement between the accused in the case to sell the kidneys and then go to a hospital in the city of Dohuk to perform the necessary examinations and surgeries for this purpose, as part of the acts

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constituting the crime attributed to the accused is the fact of the agreement on buying and selling that took place in the city of Mosul, and that is enough to determine the venue jurisdiction of the Mosul Investigation Court, as article (53/alif) 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,...), also, the Mosul Investigation Court has made advanced levels in its investigation, and it is in the interest of the investigation and reach the truth in it that the aforementioned court should complete those investigations and then issue the appropriate decision in light of the results. Thus, referring the case to the Dohuk Investigation Court was not justified, and the decision of the Dohuk Investigation Court on 16.5.2021, which included referring the investigative papers to the Mosul Investigation Court to complete the investigation, is incorrect and contrary to the law, the court should have considered the provisions of Article (93/8<sup>th</sup>/alif) of the Constitution if it appears to it that it is not competent to consider it and to submit the matter to the Federal Supreme Court to determine the competent court in the venue, not to decide to refer it to the Investigation Court of Mosul, as the last court that decided initially to refer it to the Dohuk Investigation Court, since the Constitution of Iraq of 2005 and the amended Law of Criminal Procedure No. (23) of 1971 set the way to the court referred to it in the event of its lack of venue jurisdiction in the investigation. Accordingly, for the aforementioned, the F.S.C. decided to consider

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the Ninawa Investigation Court as the court with venue jurisdiction to investigate in the lawsuit of the accused (Ahmed Qais Ahmed and Qassem Yahya Salman), 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 (93/8<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 (12. Dhul-Qidah. 1442) AH., (23.6.2021) A.D.

Signature of  
The president

**Jasem Mohammad  
Abbood**

Signature of  
The member

**Haidar Jaber Abed**

Signature of  
The member

**Sameer Abbas  
Mohammed**

Signature of  
The member

**Haider Ali Noory**

Signature of  
The member

**Ghaleb Amer  
Shnain**

Signature of  
The member

**Khalaf Ahmad Rajab**

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Signature of  
The member

Signature of  
The member

Signature of  
The member

**Ayoub Abbas Salih**

**Abdul Rahman  
Suleiman Ali**

**Diyar Muhammad  
Ali**