

Republic of Iraq
Federal supreme court
Ref. 76/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 21.6.2021 headed by Judge Jasem Mohammad Abod 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 Requester for the Appointment of the Competent Court:
Investigative court of Nineveh

The Request:

The judge of Investigative court of Nineveh asked the FSC under letter No. (9875) on 6/6/2021 to locate the competent court in the case of the investigation of the sponsored accused (Yahya Saad Yahya Ahmed Al-Charvani) according to the provisions of article (17/1st) from the Human Organ Transplants and Trafficking Prevention Law No. (11) of 2016 (amended) and the subject of trafficking in human organs in conjunction with other defendants separated from this case, based on the provisions of Article (93/8th/alif) of the Constitution of the Republic of Iraq 2005. The case was placed under scrutiny and deliberation by the FSC and the following decision was issued:

The Decision:

After scrutiny and deliberation by the FSC found that on 9/2/2021, the judge of the Investigative Court of al-Mosul /Left and in the light of the reading submitted to him by the Division against Human Trafficking and Human Members referred the case of the sponsored defendant (Yahya Saad Yahya Ahmed Al-Charvani) to the Investigative Court of Erbil to complete its investigation according to spatial jurisdiction based on the provisions of Article (53/alif) of the Criminal Procedure Law No. (23) of 1971 (amended). On date 26/4/2021 the judge of the Investigative Court of Erbil decided to return the investigative papers to the Investigative Court of al-Mosul /Left to complete its investigation based on the provisions of article (53/alif) of the Criminal Procedure Law mentioned above because the Investigation Court of al- Mosul /Left has come a long way in the investigation and the investigation has reached its final stages in the case and the spatial jurisdiction is not from the public system. On date 6/6/2021 the judge of the Investigative Court of Nineveh decided submitted the matter to the FSC to determine the competent court to hear the case based on the provisions of Article (93) of the Constitution of the Republic of Iraq for 2005 and when the FSC heard the subject of the complaint it was found that it related to the agreement of the accused (Yahya Saad Yahya) with other defendants to sell one of his kidneys for a monetary amount in the city of Erbil, he stated in his written statements before the court of investigative that he went with his wife and uncle to the city of Erbil and stayed in the hotel (West Rome) and met at the hotel mentioned accused (Mohammed Burji) alias Abu Kilan, who took them to Finn Hospital in the city of Erbil and completed the examinations and then underwent surgery and his left kidney was removed and he received a sum of ten million dinars from his kidney, article (53/alif) of the Amended Criminal Procedure Law No. (23) of 1971 stipulates that it (determines the jurisdiction of the

investigation where the whole crime took place or part of it or any complementary act or any result resulting from it or an act that is a penalty for a complex, continuous or successive crime or of the crimes of habit as defined by the place where the victim was found or found the money for which the crime was committed after being transferred to him by the perpetrator or someone who aware of it.) Therefore, the FSC finds that the Investigative Court of Arbil is the competent court in place to hear the case and that its decision of 26/4/2021 is incorrect and contrary to the law, since if it is considered not competent to investigate the case, it should submit the matter to the FSC to determine the court competent to investigate the case spatially based on the provisions of Article (93/8th/alif) of the Constitution of the Republic of Iraq for 2005. For all of the submitted above, the FSC decided to consider the Investigative Court of Arbil as the competent court in place to hear the case and notify the Investigative Court of Nineveh of this and issued the decision by decisively and obligated to all authorities based on the provisions of articles (93/8th/alif & 94) of the Constitution of the Republic of Iraq for 2005 and Article (5) of FSC's law No. (30) of 2005 (amended) by Law No. (25) of 2021 on 21/June/2021 coinciding with 10/Dhu Al, Qada/1442.

Signature of
The president
**Jasem Mohammad
Abod**

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**