

Republic of Iraq
Federal supreme court
Ref. 7/federal/2021



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 25.4.2021 headed by the 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 whom are authorized to judge in the name of the people, they made the following decision:

The Request:

The judge of Investigation Court of al-Mosul request from FSC under the letter No. (7629/2021) on 1/4/2021 Appointing the competent court to hear the investigative case of the accused paid bail, (Ayman Mazen Mohamed) in accordance with the provisions of Article (5) of the Human Organ Transplantation and Prevention of Trafficking Law No. (11) of 2016 as (amended), the subject of which is (accused Ayman Mazen Mohamed Ibrahim sells an organ of his (kidney) in cooperation with a group of accused who trade in human organs) The above investigative judge relied on the provisions of Article (93/8th/alif) of the Constitution of the Republic of Iraq for the year 2005. The request under scrutiny and deliberation by the FSC and reached the following decision:

The Decision:

After scrutiny and deliberation by the FSC found that on date 13/10/2020 the judge of Investigative court of al-Mosul/Left decided, based on the report presented by the Division of Combating Human Trafficking and Human Organs, to refer investigative papers Of the accused Ayman Mazen Mohamed to the Erbil Investigation Court to complete its investigation, according to venue jurisdiction based on the provisions of Article (53/alif) of the Criminal Procedures Law No. (23) of 1971 (amended). On date 11/1/2021 the judge of the Erbil Investigation Court and because the complaint was registered with the Investigative court of al-Mosul on 27/6/2019 and it has proceeded with the investigation and has gone a long way, in returning the papers to the Investigative court of al-Mosul/Left to complete the investigation. On date 24/3/2021 the judge of Investigative court of al-Mosul/Left presenting the subject to the FSC to determine the spatially competent complaint hearing the case according to the provisions of article (93/8th/alif) of the Constitution considering that the decision of the judge Erbil Investigation Court to return the investigative papers considered to be rejected. After scrutiny found that the date 28/8/2019 After the testimonies of Shahad Yasser Hazem Jamil and Muhannad Yasser Hazem were recorded by the Investigative court of al-Mosul/Left, the aforementioned court issued an arrest warrant for the accused Ayman Mazen Muhammad in accordance with the provisions of Article (17) of the Human Organ Transplantation Act and the prevention of trafficking in it. On the date of 15/9/2019, the same court wrote down the statements of the mentioned accused after he was arrested and reported that, being unemployed, he agreed with a group of defendants to sell his kidney and actually went to the governorate of Erbil with his wife Shahad Yasser Hazem and agreed with one of the people to sell it to him in exchange for an amount Ten million dinars of money was handed over to the accused father, Mazem Muhammad Ibrahim the last

defendant mentioned when recording his statements that his son, the accused Ayman, called him and asked for his presence to the governorate of Erbil, the (jem.) hospital for that, and he actually went to that hospital and found that his mentioned son had undergone a kidney resection. After scrutiny whereas the crime is committed in the governorate of Irbil and since article (53/alif) of the Criminal Procedure Law No. (23) of 1971 (amended) (the jurisdiction of the investigation is determined by the place in which the whole crime occurred, an act that is part of it, or any act that is complementary to it or any result resulting from it or an act that is part From a complex, continuous or consecutive crime, or from a habitual crime, as it is determined by the place in which the victim was found or where the money in respect of which he committed the crime was found after it was transferred to him by the perpetrator or a person familiar with it). Therefore, the decision of the Erbil Investigation Court of 2021, which includes returning the investigative papers to the Investigative court of al-Mosul/Left to complete the investigation, is incorrect and contrary to the law. Where the court, when it considers it not competent, had to decide to reject the referral decision and to present the subject to the FSC to determine the spatially competent court to consider the case, and the latter would be the spatially competent court to consider the case under consideration. The FAC decided to considering the Erbil Investigation Court as the competent court to venue investigate the research topic, and the Investigative court of al-Mosul/Left was notified of this, and the decision was issued by unanimously, decisively and binding on all authorities based on the provisions of Articles (93/8th/alif) and (94) of the Constitution of the Republic of Iraq for 2005 and the articles (4/8th/alif and 5/2nd) of FAC's Law No. (30) of 2005 (amended) on 25/4/2021.