



The Federal Supreme Court (F.S.C.) was convened on 14.9.2021 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 Nineveh Investigation Court judge requested by his decision dated 06/16/2021 accompanying the Nineveh Investigation Court letter No. (10707) on 06/20/2021 to determine the competent court to complete the investigation in the case of the accused (Ibrahim Salih Hassan Muhammad Al-Quran) in accordance with Article (5) of the Anti-Human Trafficking Law No. (28) for the year 2012, due to a conflict of venue jurisdiction between the aforementioned court as a court of the Federal Judicial Council and the Dohuk Investigation Court of the Judicial Council of the Kurdistan Region, based on the jurisdiction of this court under Article (93/eighth/a) of the Constitution of the Republic of Iraq For the year 2005. The request and the case file were placed under scrutiny and deliberation by this court, and as a result, it issued the following decision:

Athraa



The decision:

Upon examination and deliberation, it was found that on 2/2/2021 the judge of the Mosul Investigation Court decided, in accordance with paragraph (4) of his decision, to refer the file of the investigative case to the Dohuk Investigation Court to complete the investigation in it according to the venue jurisdiction, because the accident occurred in the governorate of Dohuk and implementing the provision of Article (53) of the Code of Criminal Procedure No. 23 of 1971, as amended, and after receiving the file by the Dohuk Investigation Court and taking some measures, on 19/5/2021, the judge of the Dohuk Investigation Court decided to return the case file to the Left Mosul Investigation Court for the same reasons and in accordance with Article (53/c) of the amended Criminal Procedure Code (aforementioned) because the incident occurred in the city of Mosul and on 06/16/2021, the Nineveh investigative judge decided to submit the matter to this court to determine the competent court in venue. His decision stated (as Mosul Investigation Court on 2/2/2021 decided to refer the investigative papers of the sponsoring accused (Ibrahim Saleh Hassan Muhammad) to the Duhok Investigation Court to complete the investigation according to the venue jurisdiction based on the provisions of Article (53/a) of the amended Criminal Procedure Code, and that the Duhok Investigation Court on 19/5/2021 decided to return the investigative papers to the Mosul Investigation Court again without accepting or rejecting the referral and without taking into account the text of Paragraph (D) of Article (53) of the aforementioned law. Accordingly, it decided to present the subject before the Federal Supreme Court to appoint the competent Court in the venue to consider these papers)), the case file was submitted to this court with the letter mentioned above. By

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reviewing the file of the case and studying its circumstances of the crime attributed to the mentioned accused, it is clear that the facts of the lawsuit summarized by the admission of the accused of selling his kidney to a patient for an amount of (12) Twelve million dinars, he explained that he is a resident of (Bardarash district / Dohuk governorate) as well as the family of the patient with whom he agreed to sell the kidneys, he also stated that the surgery was held in Dohuk governorate' hospital, therefore Dohuk Investigative Court is the one competent to complete the investigation, based on the text of Article (53/a) of the amended Code of Criminal Procedure (aforementioned), which states that (the investigation's jurisdiction is determined by the place where all or part of the crime or any act complementing it occurred, and any result that resulted from it...etc) and by noting the investigation's report dated 5/19/2021 submitted to the Dohuk investigative judge, it is clear that the judge has relied on the letter of the General Directorate of Health of Dohuk Governorate / Technical Affairs Department No. (5518) on 18/5/2021, which includes that the accused (Ibrahim Saleh Hassan Muhammad) did not perform any operation to remove the kidneys in the hospitals of Dohuk governorate, but the court finds that this letter does not indicate definitive evidence that the act was not committed and within the administrative boundaries of Dohuk governorate, and that the most prominent evidence in the case is statements and the confession of the accused himself, for all of the foregoing, the court decided to consider the Dohuk Investigation Court as the competent authority to complete the investigation of the case, and that its decision dated 5/19/2021, which included returning the investigative papers to the left Mosul Investigation Court, was incorrect and contrary to the law. The judge of Dohuk Investigation Court is not

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competent in the investigation to decide to submit the matter to the Federal Supreme Court based on the provisions of Article (93/eighth/a) of the Constitution of the Republic of Iraq for the year 2005 to determine the court with jurisdiction over the case, not to decide to refer it to the court from which the case was transferred (the Court of Investigation of the left Mosul), the decision was issued in agreement, final and binding on all authorities, based on the provisions of Articles (93/Eighth/A and 94) of the Constitution of the Republic of Iraq for the year 2005 and Articles (4/Eighth/A and 5/Second) of the Federal Supreme Court Law No. (30) Of 2005 Amended by Law No. (25) Of 2021 on Safar 6, 1443 AH corresponding to 9/14, 2021 AD.

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

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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