

Republic of Iraq  
Federal Supreme Court  
Ref. 89 / federal / 2021



Kurdish text

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The Federal Supreme Court (F.S.C.) was convened on 15.9.2021 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 judge of the Nineveh Investigation Court requested the Federal Supreme Court by the letter No. (10932) on 06/22/2021 to appoint the court with jurisdiction over the investigative case for the sponsored defendants (Amer Abdel Qader Muhammad and Ahmed Falah Ali), in accordance with Article (5) of the Anti-Humans Trafficking Law No. (28) for the year 2012 and its subject is trafficking in human organs (sale of kidneys), in accordance with the provisions of Article (93/Eighth/A) of the Constitution of the Republic of Iraq for the year 2005, and when the case was received by this court, it was registered in the number (89/Federal/2021) and the papers were placed to scrutiny and deliberation, the court issued the following decision:

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### **The decision:**

Upon examination and deliberation by the Federal Supreme Court, it was found that on 2/2/2021 the judge of the Mosul Investigation Court decided, in the light of the report submitted to him by the Division for Combating Trafficking in Human Beings and Human Organs, to refer the case of the sponsored defendants (Ahmed Falah Ali Muhammad and Amer Abdul Qadir Muhammad Jassim) to the Dohuk Investigation Court to complete the investigation in it according to the venue jurisdiction based on Article (53) of the Code of Criminal Procedure No. (23) of 1971, as amended, and on (05/31/2021) the judge of the Duhok Investigation Court decided to return the case to the Mosul Investigation Court to complete the investigation according to the venue jurisdiction, based on the provision of Article (53/C) of the Code of Criminal Procedure No. (23) of 1971, as amended, and on 16/6/2021, the Nineveh Investigation Court judge decided to submit the matter to the Federal Supreme Court for the purpose of appointing the court with jurisdiction over the case considering that the decision of the Dohuk Investigation Court judge to return the investigative papers is a rejection of the referral decision. Upon examination and deliberation, it was found that the case is summarized in its facts by the sponsored defendants (Ahmed Falah Ali Muhammad and Amer Abdul Qader Muhammad Jassim) trading in human organs and their attempt to persuade the so-called (Ibrahim Talal Ahmad Muhammad) to sell his kidney, taking advantage of his financial need, and that all the accused are residents of Mosul and that the agreement to commit the crime happened in the city of Mosul, and that the Mosul Investigation Court had made a great stride in the investigation, and since Article (53/a) of the amended Code of Criminal Procedure

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(aforementioned) stipulated that (the jurisdiction of the investigation is determined by the place where all or part of the crime or any act occurred) complementary to it or any result resulting from it ... etc.) Accordingly, the Federal Supreme Court finds that the Nineveh Investigation Court is venue competent to investigate the case, so it was decided to appoint the Nineveh Investigation Court to be venue competent to investigate and deposit the case papers before it to complete the investigation in it according to the venue jurisdiction and to notify investigation court of Dohuk, about that, and that its decision dated (31/5/2021), which included returning the investigative papers to the Mosul Investigation Court, is incorrect and contrary to the law. If it seems that it is not venue competent to conduct the investigation, it should not decide to reject the referral and to present the matter to the Federal Supreme Court based on the provisions of Article (93/Eighth/A) of the Constitution to appoint the court that is venue competent to conduct the investigation, not to decide to return it to the court from which the case was referred (Mosul Investigation Court). The decision was issued by 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 as amended By Law No. (25) of 2021 on Safar 7 / 1443 AH corresponding to 9/15-2021 AD.

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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**

Signature of  
The member

**Ayoub Abbas Salih**

Signature of  
The member

**Abdul Rahman  
Suleiman Ali**

Signature of  
The member

**Diyar Muhammad Ali**

*Athraa*