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The Federal Supreme Court (F.S.C.) was convened on 13.9.2021 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:**

Upon examination and deliberation by the Federal Supreme Court, it was found that the Nineveh Investigation Court judge requested, in accordance with the letter No. (12232) on 25/7/2021, to specify the court with jurisdiction over the investigation in the case of the accused (Muhammad Wa'ad Hamid Ali Al-Ta'i, Saif Abdullah Saleh Hamo Al-Shahwani, and Ashwaq Yunis, Yahya Mustafa Al-Tai and Iman Salah Nasser Hisham Al-Wattar) in accordance with the provisions of Article (17) of the Human Organ Transplant Operations and Prevention of Trafficking in it Law No. (11) of 2016 and its subject matter trafficking in human organs, the case was put under scrutiny and deliberation, and the court issued its following decision:

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**The decision:**

Upon examination by this court, it was found that on November 10, 2020, the judge of the Mosul Investigation Court decided to refer the investigative papers of the sponsored defendants (Muhammad Waad Hamed, Saif Abdullah Saleh, Ashwaq Yunis Yahya and Iman Salah Nasser) to the Erbil Investigation Court to complete the investigation and according to the venue jurisdiction based on the provisions of Article (53) of the Code of Criminal Procedure No. (23) of 1971, as amended, and on 4/13/2021, the Erbil Investigation Court decided to return the investigative papers to the Left Mosul Investigation Court to complete the investigation, because the complaint was registered on 3/9/2020 with that court and it has reached advanced stages in the investigation and that the venue jurisdiction is not from the public order and there is no jurisdiction for the Kurdistan Region Court of Cassation over the federal courts, and on 7/7/2021, the Nineveh Investigation Court judge decided to submit the matter to the Federal Supreme Court to determine the court that is venue competent to conduct the investigation in the case in accordance with the provisions of Article (93) of the Constitution of the Republic of Iraq for the year 2005, when examining the case, it became clear that on 3/9/2020 and at one o'clock in the afternoon, the Bartella Police Station was asked by the checkpoint of Martyr's Sabhan in the presence of a woman returning from Erbil governorate heading towards the city of Mosul and does not carry any official document proving her identity. Upon investigation with her, it was

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found that she was intending to sell her kidney due to her poor financial condition, and the aforementioned police station presented that with a review of the judge of the Hamdania Investigation Court after the name of the accused was identified (Eman Salah Nasser Hisham) and decided to arrest her in accordance with the provisions of Article (17) of the Human Organ Transplant Operations and Prevention of Trafficking Law No. (11) of 2016 whose statements were written by the Hamdania Investigation Court. She stated that she is a resident of Mosul city AlJada area, married from the accused, Muhammad Waad Hamed by non-official contract and that the accused, Saif Abdullah, is a friend of her husband, and he offered her to sell her kidney due to her poor financial situation, and she agreed to that in return for an amount of ten million Iraqi dinars. She went with him to the city of Erbil, in addition to the accused, Ashwaq Yunis Yahya, and she did not sell her kidney, because she was arrested. Accordingly, a judge issued of Left Mosul Investigation Court, after the investigative papers were presented to him by the Anti-Trafficking in Persons and Organs Division on 6/9/2020, an arrest warrant was issued against the remaining defendants, the subject of the case, and on the same date, the arrest was made. The statements of the accused, Ashwaq Younes Yahya, were written down, and her statements included the same statements as those of the accused, Iman Salah Nasser, as well as the statements of the accused, Muhammad Waad Hamed Ali, and confirmed the same statements of the two aforementioned defendants, the same statement

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was confirmed by the accused Saif Abd Allah Salih. On 7.9.2020 the left Mosul investigation judge has filed an independent case against the accused, Sabreen Waad Mahmoud, according to the provisions of resolution (234) for the year 2001, as well as an independent case against her according to Article (5) of the Anti-Human Trafficking Law No. (28) for the year 2012, accordingly, and because the case was registered on 3/9/2020 and the investigation was initiated into it by the Hamdania Investigation Court, then the Mosul Investigation Court took over the investigation, and that the investigation reached advanced stages, and that the venue jurisdiction and based on the provisions of Article (53/a) of the Code of Criminal Procedure No. (23) of 1971, as amended, is determined by the place in which it took place. in which the crime is all or part of it or any act complementing it or any result of it or an act that is part of a compound, continuous or sequential crime or one of the crimes of habit as determined by the place where the victim was found or the money in which the crime was committed after transferring e to him by the perpetrator or a person aware of it. And since the agreement took place in the city of Mosul, the Nineveh Investigation Court is the one that is venue competent to conduct the investigation on it, for all of the above, the court decided to consider the Nineveh Investigation Court to be the court that is venue competent to conduct the investigation in the case of the accused (Muhammad Waad Hamed, Saif Abdullah Saleh, Ashwaq Yunis Yahya and Iman Salah Nasser ) According to the provisions of Article (17) of the Human Organ Transplant and

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Prevention of Trafficking Law No. (11) of 2006 and to notify the Erbil Investigation Court of this, and that the last court decision dated 4/13/2021 containing the return of investigative papers to the Mosul Investigation Court is incorrect and contrary to the law, as it had the opinion that it was not competent to conduct the investigation, the matter was presented to this court to determine the court with jurisdiction to conduct the investigation based on the provisions of Article (93 / 8<sup>th</sup>/ A) of the constitution, not to decide to return it to the Mosul / Left Investigation Court, the decision was issued by agreement, final and binding on all the authorities in accordance with 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) of the Federal Supreme Court Law No. (30) for the year 2005, as amended by Law No. (25) for the year 2021 on Safar 5/1443 AH corresponding to 9/13/2021 AD.

Signature of  
The president

**Jasem Mohammad  
Abbood**

Signature of  
The member

**Sameer Abbas  
Mohammed**

Signature of  
The member

**Ghaleb Amer  
Shnain**

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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**