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The Federal Supreme Court (F S C) has been convened on 2/5/2021 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghalib Amir Shunayen, Hayder Jabir Abid, Hayder Ali Noori, Khaled Ahmed Rajab, Adobo Abbas Salah, Abdul-Rahman Suleiman Ali and Dyer Mohammed Ali who authorized in the name of the people to judge and they made the following decision:

The Challenger: Wazira Mahmood Salih/ spouse of the sentenced Mohammed Yousef Khalaf – her agent the Barrister Ibrahim Hasan Abdul Ridha Al-Sultani.

The body whose challenged: the jurisdiction of the Duhok Criminal Court in the region of Kurdistan for issuing the judgment against the husband of the challenger in the case number 381/Jim/2006 on 3/October/2007 which ratified by the Cassation Court of Kurdistan region.

### Challenge Office

The challenge requestor claimed that the Dohuk Criminal Court issued a decision that included sentencing her husband, Mohammed Yousef Khalaf, to death by hanging based on the provisions of the Second Article of the Anti-Terrorism Law in the Kurdistan Region and since the decision above is contrary to the law and the constitution and subjected to appeal to the Federal Supreme Court based on the provisions of the article (93/1<sup>st</sup> and 8<sup>th</sup>/ Alif and Beh) of the Republic of Iraq Constitution. Therefore, she proposed to challenge it before this Court for the following reasons:

1. The site of the crime which her husband was accused of, is within the jurisdiction of Nineveh Criminal Court because of the explosion (case subject) which her husband was accused of occurred in the

headquarters of the Iraqi Army Regiment in Rabeah region, and it's a district belong to the Governorate of Nineveh. For this reason, the Criminal Court of Nineveh is the specialized Court to try his case, not the Criminal Court of Duhok.

2. Her husband is an officer in the Iraqi Army with a rank of Colonel Major, he had been arrested by the office of anti-crime in Duhok without corresponding his reference. His reference, the Ministry of defense objected to this procedure by the letter number 3832 on 22/May/2008 which addressed to the General Leader office. There were several addresses attached to the petition of the case, all of which clarify that the accident is out of the jurisdiction of the Kurdistan region and the trial was illegal and violating the rules of jurisdiction drawn by the Constitution.
3. According to what was listed in paragraphs (1, 2) above-mentioned, the decision issued by the Criminal Court of Duhok is lacking to its legal legitimacy and does not produce any trace.
4. For the above-mentioned reasons, she requested to challenge the rules of jurisdiction adopted by the Criminal Court of Duhok in issuing the aforementioned decision. Considering that the jurisdiction of the case related to her husband is a private jurisdiction of the Federal Judicial Powers, civil or military. The challenge presented by Wazira Mahmood Salih set for scrutiny and deliberation of the Federal Supreme Court, and the Court issued the following decision:

### The Decision

During scrutiny and deliberation by the Federal Supreme Court, it was found that the challenge request was presented by challenger Wazira Mahmood Salih by her agent the Barrister Ibrahim Hasan Abdul Ridha is including the challenge against the rules of jurisdiction adopted by the Criminal Court of Duhok about the trial of her husband Mohammed Yousef Khalaf. She requested from this Court to annul the decision issued against her husband by the aforementioned Court in the number (381/Jim/2007) on 3/October/2007 which included (to judge with the sentence of death by hanging against the Criminal Mohammed Yousef Khalaf according to the article (second/3) of anti-terrorism Law No. 3 for 2006) in addition to the other paragraphs

listed in the decision. This Court finds that the request of the challenger must be rejected for the following reasons:

1. The jurisdiction of this Court according to the article (93/8<sup>th</sup>/ Alif and Beh) is restricted in the chapter of jurisdiction dispute between the Federal Judiciary and the Judicial committees for the regions and the Governorates, not incorporated into a region. This dispute did not happen when trying the case of her sentenced husband Mohammed Yousef Khalaf. The judicial dispute should be presented by the judicial committees, not by individuals, therefore, trying this case is not the jurisdiction of this Court.
2. The challenge request presented by Wazira Mahmood Salih is also including the request of annulling the decision issued by the Criminal Court of Duhok against her husband. Annulment of the decisions issued by the Judiciary is not jurisdiction of the Federal Supreme Court which is listed in the article (93) of the Constitution and the article (4) of the Federal Supreme Court Law No. (30) For 2005 (amended). Therefore, the Federal Supreme Court decided to reject the request of the challenger and to burden her with the fees and the expenses. The decision has been issued unanimously and final according to the provisions of articles (93/8<sup>th</sup>/Alif) and (94) of the Republic of Iraq Constitution for 2005, and the articles (4) and (5) of the Federal Supreme Court Law No. (30) For (2005) (amended). The decision has been made clear on 2/May/2021 coinciding with 20/Ramadan/1442 Hegira.