

In the name of God most gracious most Merciful

Republic of Iraq  
Federal supreme court  
Ref. 27/federal/2021



Kurdish text

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The Federal Supreme Court (F.S.C.) has been convened on 2. 5 .2021 headed by Judge Jasem Mohammad Abood 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 is authorized to judge in the name of the people, they made the following decision:

#### The Request:

The judge of the Investigative court of al-Mosul/Left request from FSC under the letter No. (7862/2021) on 5/4/2021 appointing the competent court to hear the investigative case of the fugitive accused, (Samir Saber Hassan) in accordance with the Human Organ Transplantation and Prevention of Trafficking Law No. (11) Of 2016 (amended), its topic (Trading in human organs in conjunction with a group of defendants whose cases are separated from this case) according to the provisions of Article (93/8<sup>th</sup>/alif) of the Constitution of the Republic of Iraq of 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 11/10/2020 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 the case of the (fugitive Samir Saber Hassan) to the Erbil Court of Inquiry to complete its investigation according to spatial jurisdiction based on the provisions of Article (53/alif) of the Criminal Procedure Law No. (23) Of 1971(amended). On date 4/1/2021 the judge of the Erbil Investigation Court referring the investigation papers to the Investigation Court of Mosul/ Left to complete the investigation based on the provisions of Article (53/alif) of the Criminal Procedure Law this is because the complaint was registered with the Mosul Court of Inquiry on 16/6/2019 and conducted an investigation into the case and went a long way, the judge of the Court of Inquiry of Mosul left decided to present the matter to the FSC for the purpose of determining the competent court spatially to hear the case, considering that the decision of the judge of the Investigation Court of Erbil to return the investigative papers amounts to a rejection of the decision to refer, on 19/12/2019, the statements of the secret informer No. (28) were recorded by the judge of the Investigation Court of Mosul/ Left and stated that he knew people who were exploiting the material need of young people of Mosul and offering to sell their kidneys for money, the statements of the accused with separated his case (Ahmed Shaaban Thanoun) by the judge of the Investigation Court of Mosul/ Left on 11/1/2020 and stated that in April 2019 he met his friend the accused with separated his case (Ahmed Qais) in the city of Mosul and was sick and told him that he sold his kidney for a sum of money and there is middleman, the fugitive accused (Samir Saber Hassan) called (Samir Al-Aaraj) specialized in arranging the sale of kidneys for money, accordingly, and because of his material need for the purpose of paying off his debts, he contacted the accused (Samir Saber Hassan) and met with him in Dohuk province and, through the fugitive accused (Samir Saber Hassan), sold his kidney to one of the beneficiaries for ten million dinars handed over to him by the above-mentioned accused. Based on the statements of the secret informant (28) and the statements of the accused with separated his case (Ahmed Sufian Thanoun) the

judge of the Investigation Court of Mosul decided to issue an arrest warrant for the fugitive accused (Samir Saber Hassan) and singled out investigative papers independent of him from the rest of the defendants, for the above, since the agreement to commit the crime took place in Mosul province, and since the Investigation Court of Mosul has come a long way in the investigation, article (53/alif) of the Criminal Procedure Law stipulated that (The jurisdiction of the investigation shall determine where the whole crime took place or part of it or any act that is complementary to it or any result resulting from it.....). Therefore, the FSC finds that the Investigation Court of Mosul/ Left is competent spatially to investigate the case, so the FSC decided to consider the Investigation Court of Mosul/ Left is competent spatially to investigate the case and submit the investigative papers to the mentioned court to complete the investigation fundamentalist and notify the Investigation Court of Erbil of this and the obligation to refuse the referral and submit the matter to this court to determine the competent court spatially to hear the case if it considers that it is not competent spatially to do so, the decision was issued by unanimously, decisively and binding on all authorities based on the provisions of Articles (93/8<sup>th</sup>/alif) and (94) of the Constitution of the Republic of Iraq for 2005 and the article (5/2<sup>nd</sup>) of FAC's Law No. (30) Of 2005 (amended) on 2/May/2021 coinciding with 20/Ramadan/1442.