

Justice Working Group Minutes of Meeting

Meeting chairs	UNDP Resident Representative, Melanie Hauenstein EU Head of Cooperation, Alessandra Viezzer
Meeting attendees	High Judicial Council, State Council, Ministry of Justice (MoJ), Ministry of Interior & Municipalities, Parliament Administration and Justice Committee, Central Management Unit (PCM), Beirut Bar Association (BBA), Tripoli Bar Association (TBA), Lebanese Judges Association, Independence of Justice Coalition Konrad Adenauer Stiftung, GIZ, Embassy of France, Embassy of Canada, Embassy of Switzerland, US Bureau of International Narcotics and Law Enforcement Affairs, Expertise France, OHCHR, UNODC, UNICEF, UN Women, World Bank, European Commission, UNRCO, IMF, Lebanese League for Women in Business (3RF Consultative Group CSO), 3RF Independent Oversight Board, ALDIC
Location	UNDP, Qubic Center, Sin el-Fil Beirut
Date	26 April 2023
Duration	1.5 hours
Meeting nr.	4
Agenda	<ol style="list-style-type: none"> 1. Opening remarks 2. Update on developments 3. Presentation on the draft law on independence of administrative courts – MP Georges Okais 4. Group Discussion
Link to previous minutes	https://www.lebanon3rf.org/partnership/sectors/justice/

Minutes of meeting
<p>1. Opening Remarks:</p> <ul style="list-style-type: none"> • The EU Head of Cooperation highlighted that the inclusive nature of the multi-stakeholder policy dialogue under the 3RF can be a catalyst for reforms. She noted that the report on the findings of the TAIEX functional review is being edited and will be presented once finalized. • The Resident Coordinator noted that the 3RF justice sector’s objective is to support an independent, effective, accountable, and accessible justice system, which is essential to restore the trust of citizens and businesses in the legal system and the State. He emphasised the need for the engagement of authorities and sector stakeholders to make progress on implementing reforms. <p>2. Update on sector developments – Ministry of Justice (MoJ):</p> <p>a) Status of the draft law on the independence of judicial courts: MoJ provided its comments and observations on the draft law, taking into consideration some of the Venice Commission’s opinion. The Parliamentary Committee on Administration and Justice did not invite the MoJ to discuss the draft law. The MoJ is not aware of how the law has evolved since it communicated its comments and observations.</p> <p>b) Status of the draft law on the independence of administrative courts: The MoJ is represented in the parliamentary sub-committee in charge of developing this draft law. The MoJ is eager to request an opinion from the Venice Commission on this law as well, but only once the draft law is mature and unified.</p>

- c) **Judicial appointments and permutations:** There have been no permutations since 2017, such permutations are less likely to occur in an executive double vacancy. The MoJ prepared a proposal to second young judges to fill vacancies and submitted it to the High Judicial Council (HJC) for consideration. If adopted, it will not require a decree. There are still 6 vacant positions for Presidents of the Chambers of the Court of Cassation.
- d) **Impact of the crisis on the judicial sector:** The poor hygiene conditions have been addressed through an agreement with the cleaning company to clean all justice palaces in the country on a pro-bono basis. The lack of electricity has not been resolved: the MoJ is relying on private donations, and the power shortage means that the data center in Beirut is still not working. Judges resumed work in January 2023, they received financial aid through the Judges' Mutual Fund in the form of medical, social and salary bonuses. However, this measure was not extended to judicial personnel.
- e) **TAIEX mission:** The MoJ participated in the review and is waiting for the report.
- f) **Riad Salameh case:** A delegation of French, German and Luxembourgian judges visited Beirut twice to hear testimonies as part of an investigation into alleged corruption by the Governor of the Central Bank Salameh. The Minister of Justice has acted as an intermediary between European and Lebanese authorities to facilitate the investigation.

Group discussion on updates:

- **MoJ – Litigation Department:** The litigation department is made up of judges, not of counsellors like in other countries, and represents the interest of the Lebanese State, including in the Governor Salameh case. The MoJ's opinion was that the department could take action in this case without the prior approval of the Minister of Finance, who also happens to be a witness in the case. However, the Public Prosecution has just rendered a contrary decision, which has for effect of impeding the Department's ability to pursue the case.
- **Beirut Bar Association (BBA):** In complement to the point made by the MoJ, there are also lawyers, not only judges, who are appointed to assist the litigation department.
- **HJC:** The HJC assumed its responsibility to facilitate the probe into the Beirut blast. The HJC is surprised that judicial appointments to the Court of Cassation require a decree and that the Minister of Finance's signature is needed, even though it has no financial implications. This is a political decision. Additionally, the HJC asserted that it is crucial to adopt the law on the independence of judicial courts. In the meantime, the current law solely requires slight amendments, particularly in terms of election/appointment of HJC members as well as permutations.
- **Lebanese Association of Judges:** In relation to the point made by the litigation department, the final decision is restricted to the investigative judge. It is not a problem of laws: Lebanon requires system reforms. The draft law on the independence of judicial courts should be brought before the public for a debate, since we are not aware of its content. It is important to change the way Higher Judicial Council members are appointed in light of the powers of the Executive. We are grateful to be invited to the discussions on the draft law on the independence of administrative courts, which is unprecedented.
- **Independence of Justice Coalition (IJC):**
 - a) IJC received a copy of the draft law on the independence of judicial courts after it was reviewed by the parliamentary committee: it is almost identical to the draft from 2022, with only minor amendments and no consideration for the Venice Commission's opinion. This draft law is not in compliance with international standards. ICJ will issue a communique on this.
 - b) It is also important to adopt a draft law that counters the impunity of a system where any accused/defendant can suspend the investigation by submitting a case against the judge.

c) The decision of the Council of the BBA to amend the code of ethics regulating the work of lawyers constitutes a severe violation of the right to freedom of expression. It means that many lawyers will not be able to speak about what is happening on a legal or judicial level. We are waiting for a decision on 4 May 2023 from the Court of Appeals on the decision taken by the Council of the BBA.

- **BBA** -In response to the observations of the IJC: The campaign against the BBA is disrespectful and exaggerated; the BBA welcomes everyone to discuss this topic and will comply with the decision of the Court of Appeals. The BBA has a long-standing reputation of defending rights, including on a pro-bono basis for victims of the Beirut blast and other vulnerable groups.
- **MP Georges Okais:** In response to the BBA, defending values is more important than defending an institution. Regardless of what the Court of Appeals ultimately decides on this file,, I have the duty to criticize even the highest institution; and, in my view, the values have been altered by the decision made by the BBA.

3. Presentation on the draft law on independence of administrative courts – MP Okais

- Lebanon needs reforms in multiple sectors including the financial, public administration, and justice. It is challenging to work towards judicial independence. There is also a draft law proposal on the military tribunal to ensure it does not prosecute civilians.
- Two law proposals on the independence of administrative courts have been submitted at the Parliament (1) by MP Osama Saad in March 2021, and (2) by MP George Adwan, with the support of the President of the State Council, in July 2021.
- Sessions are held every Tuesday, attended by representatives of the MoJ, State Council, BBA, Tripoli Bar Association, and Lebanese Association of Judges.
- Constraints include the lack of rooms in Parliament and inadequate number of staff.
- We object to attending any legislative session without the President of Lebanon being elected; Article 75 of the Constitution requires a President. State Council, within its mandate, regulates issues emanating from the executive. Hence, the efficiency of the Council, the integrity and neutrality of its decisions cannot be guaranteed if it is dependent of the executive. The draft laws aim to break free from the executive.
- The idea is to proceed with a double jurisdiction system, consisting of administrative tribunals of the 1st degree in various governorates and a central State Council of Appeal and Cassation, controlled by an elected Higher Administrative Council following clear eligibility criteria, representing all grades of judges. Only a minority of the members of the Higher Council should be appointed, with the rest elected. Additionally, an evaluation system should be put in place in order to ensure credible appointments.
- Hence, the main pillars of the reform are that it should be based on meritocracy, delivered on a double jurisdiction, and controlled by a body with the majority of its members elected. We need a neutral impartial justice system.
- This reform is essential to counter abuse of power, to ensure efficient use of funds, and ultimately catalyze economic revival through foreign investments.
- The establishment of a legal forum where Lebanese can discuss relevant topics should be considered. The 3RF platform is a space for reflection, but the international community should not have to serve as intermediaries for dialogue between different stakeholders, they can support with technical assistance.
- On the draft law on the independence of judicial courts, we see divergent views and we need to involve all partners, but at end of day it is the Parliament's decision; we strive for constitutionality of the text. Given the political context and current fragmentation of the Parliament, enacting the draft law would be an important step. In the coming years it can be re-evaluated.

Group Discussion:

- **IJC:** Why was there no consideration of the Venice Commission recommendations?
- **MP Okais:** The endorsement of the Venice Commission is not mandatory. The recommendations were debated. While the draft law may not be perfect, it would still make a big difference and has a chance of being passed by Parliament.
- **Lebanese Association of Judges:** Adopting a law that is less than perfect will not lead to the objective of breaking the link between the executive and the judiciary. The public will be disappointed if the law does not make a difference.
- **MP Okais:** Perhaps there is a need to define what is perfect. I do not agree with not doing anything if it is not perfect.

Closing Remarks:

- The EU Head of Cooperation emphasized that reforms and changes have to be done by Lebanese for Lebanese. The EU is here as supporter, donor, friend who gives advice, but the decision is in Lebanon's hands.
- The UNDP Resident Representative reiterated UNDP's offer of support and proposed to use the 3RF platform to collectively support the development of a legal forum as recommend by MP Okais.