

## Justice Working Group Minutes of Meeting

<b>Meeting chairs</b>	EU Head of Cooperation Alessandra Viezzer UNDP Resident Representative, Blerta Aliko
<b>Meeting attendees</b>	State Council, Ministry of Justice (MoJ), Ministry of Interior and Municipalities (MOIM), Parliament Administration and Justice Committee (MP Okais), Venice Commission, European Commission, Beirut Bar Association (BBA), Lebanese Judges Association, Independence of Justice Coalition, Embassy of France, Embassy of Canada, Embassy of Switzerland, Embassy of Germany, Embassy of Italy, Expertise France, IOM, UN RCO, UN Women, UNICEF, OHCHR, UNODC, 3RF Independent Oversight Board, Legal Action Worldwide, Konrad Adenauer Stiftung (KAS), Lebanese Center for Human Rights (CLDH), Justice Forum Secretariat.
<b>Location</b>	EU Delegation, Beirut
<b>Date</b>	19 June 2024
<b>Duration</b>	1.5 hours
<b>Meeting nr.</b>	7
<b>Agenda</b>	<ol style="list-style-type: none"> <li>1. Introduction</li> <li>2. Presentation on the legal opinion on the Venice Commission's Legal Opinion on the Draft Law on Administrative Courts (March 16, 2024)</li> <li>3. Presentation on "The draft law on the independence of administrative courts" by PM Georges Okais</li> <li>4. Justice Forum Meetings Updates</li> <li>5. AOB</li> </ol>
<b>Link to previous minutes</b>	<a href="https://www.lebanon3rf.org/sites/default/files/2024-01/3RF%20Justice%20WG%20-%20MoM%2018.12.2023%20v.NF_.pdf">https://www.lebanon3rf.org/sites/default/files/2024-01/3RF%20Justice%20WG%20-%20MoM%2018.12.2023%20v.NF_.pdf</a>

<b>Minutes of meeting</b>
<p><b>1. Opening Remarks:</b></p> <ul style="list-style-type: none"> <li>• <b>EU Head of Cooperation</b> highlighted the ongoing efforts to reform Lebanon's judicial system, emphasizing the importance of the Venice Commission's opinion and its impact on the judicial reform process.</li> <li>• <b>UNDP Resident Representative</b> expressed her delight in attending her first 3RF JWG noting the central role of the justice sector in development. She emphasized the importance of maintaining the current momentum of reforms and cautioned against allowing prevailing crises to impede progress. While acknowledging the inherent challenges, she affirmed the necessity of pursuing these reforms for future advancement.</li> </ul> <p><b>2. Presentation by the Venice Commission:</b></p> <ul style="list-style-type: none"> <li>• Prof. Dr. Martin Kuijer provided an overview of the Venice Commission's opinion on the draft law on the administrative courts in Lebanon: <ul style="list-style-type: none"> <li>○ The Venice Commission welcomes Lebanon's initiative to modernize its administrative justice system, aiming to reduce executive influence and create a Higher Administrative Council responsible for appointments, transfers, training, and discipline of judges.</li> </ul> </li> </ul>

- The presentation included 3 main sections: (1) The composition of the HJC, (2) Entrance to the Judiciary, and (3) Discipline
  - A two-tier system of administrative justice is proposed, with courts of first instance and a state council, excluding the principle of confessionalism in judicial appointments and emphasizing a merit-based system.
  - Concerns were raised about the feasibility of quickly establishing new courts, including the recruitment and training of 200-300 new judges, with recommendations for a phased introduction starting with a pilot court in Beirut.
  - Key recommendations include increasing the number of Higher Administrative Council members elected by peers, ensuring representation from all judicial levels, adding lay members to the council, and establishing a mechanism for partial renewal of council positions.
  - Additional suggestions include regular judicial entrance exams, clearer disciplinary grounds, public hearings as a default rule, and a case assignment mechanism based on objective criteria.
- **Independence of Justice Coalition** emphasized that there are two draft laws, and the Venice Commission consulted only one. It was also highlighted that it is important to consider both internal and external independence of judiciary.
  - Entrance exams were also recommended, since for the past years there were no calls for exams at all. The law stated that we would have first-instance courts starting from 2020 to increase the number of judges, but no calls were held, leading to a decrease in the number of judges. Addressing this concern requires the possibility of annual entry into the judiciary to ensure that the total number of judges remains stable.
  - It was also noted that the inclusion of non-judicial members in the judicial council is a sensitive issue. Judicial cultures vary, and in some countries, it is seen as beneficial to have lay members, while in others, it is frowned upon. The **Venice Commission** recommends adding non-judicial members to councils to provide fresh perspectives and legitimacy to the wider public.
  - A request was made to solicit insights on how the subcommittee of the Administration and Justice Parliamentary Committee is dealing with the Venice Commission's opinion and how the State Council is addressing it, and whether there is intention to amend it based on the opinion. Inquiry about the second draft law was made, which is deemed now as "kept in the background".
  - **The Club of Judges** commented about the necessity and relevance of including provisions related to proceedings within the same draft law that deals with the organization of the judiciary. It was noted that the draft law contains a significant number of articles related to proceedings, which may be cumbersome. It was noted that there is no firm stance from the Venice Commission on whether procedural and organizational provisions should be in separate laws. While many countries' practice is to separate these provisions, it is not a standard. In addition, concerns were raised about the broad meaning of "obligation de reserve" and its potential arbitrary use. The Venice Commission's opinion, in paragraphs 71 to 73, recommends clarifying this notion either in the law itself or in an explanatory memorandum attached to the bill. This is to ensure that judges understand the exact scope of this obligation and to avoid arbitrary application of these provisions.
  - Article 49 of the draft law on administrative courts was addressed, which pertains to violations that can be committed by a judge. The Venice Commission highlighted the need for precise definitions,

particularly concerning the obligation of reserve. Previous problems were faced due to undefined obligations, which led to disciplinary actions and inspections based on the vague concept of the obligation of reserve. It was questioned why Article 49 was omitted from the commission's report, emphasizing the importance of addressing this issue.

- Divergence in opinions within the sub-committee was mentioned. Some favor publicity of trials only if the court or council chooses, while others believe it should be the default unless explicitly stated otherwise. However, international standards favor this publicity, as supported by the Venice Commission, European Court of Human Rights, International Covenant on Civil and Political Rights and the Human Rights Committee of the United Nations.

### **3. Presentation on “The draft law on the independence of administrative courts” by MP Georges Okais**

- The presentation outlined the progress and challenges in reforming administrative justice in Lebanon. Since October 2022, a sub-committee has held 43 debate sessions, producing 290 articles with input from various judicial and legal representatives. However, logistical issues, simultaneous studies of multiple proposals, and the chairperson's multiple responsibilities have caused delays. There are significant divergences in opinions among participants and resistance to reforms within the Parliament. The process includes finalizing recommendations from the Venice Commission and integrating judicial independence laws, with an expected completion timeline extending to December 2024.
- **KAS** inquired about the possible ways international organizations could support to expedite the drafting and adoption of law in Parliament.
- **MP Okais** addressed the importance of advocacy efforts and awareness on the judicial independence. This includes engaging with different parliamentary blocs, especially those opposing judicial independence, to exert pressure and raise awareness.
- **Independence of Justice Coalition** emphasized the importance of timely action and public discussions within parliamentary commissions and the importance of publishing reports to inform the public and involve citizens in the reform process. It was recommended to advocate for more public debates on military court reform.
- Encouragement for any efforts to inform the public and promote discussions on the reform was also noted.

### **4. Justice Forum Meetings Updates by the Justice Forum Secretariat**

- The justice forum was launched on 29 February 2024 to develop a roadmap for justice sector reform in Lebanon through an inclusive, nationally-owned process.
- The road map will include 5 main themes that reflect divisions of the TAIEX functional review:
  - Independence, accountability and professionalism of the judiciary
  - Efficiency, transparency, digitalization and accessibility of the justice system
  - Criminal justice and human rights
  - Juvenile justice and child protection

○ Administrative Justice

- 2 working group sessions for the first thematic working group on independence, professionalism, and accountability took place. Participants included representatives from various judicial and legal institutions, bar associations, civil society organizations, and law faculties, supported by a secretariat of national experts, and with international experts also supporting.
- Discussions follow a comparative methodology to address current laws, functional review recommendations, judicial independence proposals, and Venice Commission suggestions, aiming for short-term actions and longer-term goals, including legislative amendments .
- The secretariat drafts a synthesis of meeting points and dissenting opinions, sharing them with participants, and publishes brief updates on the 3RF website to inform the public.
- **The EU Head of Cooperation** inquired about the expected timeline for finalizing the roadmap, with an aim to complete it by the end of this year.
- Clarifications were sought by **IOM** on whether the justice forum would replace the 3RF justice working group. It was explained that the justice forum complements the 3RF working group, providing detailed, technical work and creating consensus among stakeholders.
- The role of civil society in the first working group was discussed. The **Independence of Justice Coalition** confirmed that the civil society organization are represented. The process is nationally owned and led, supported by the international community, including the EU, UNDP, and the Swiss.

**Closing Remarks:**

- **EU Head of Cooperation** closed the meeting by reiterating commitment to support as convening entities, as well as providing technical assistance where needed.