

LEBANON: PROGRESS TOWARDS SDG16:

A CIVIL SOCIETY REPORT ON SDG 16.4, 16.5, 16.6 AND 16.10

16 PEACE, JUSTICE
AND STRONG
INSTITUTIONS



* SUSTAINABLE DEVELOPMENT GOALS



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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of July 2018.

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Executive Summary and LTA's findings on national progress towards SDG 16.4, 16.5, 16.6 and 16.10

Fighting corruption has become the main topic of discussion in Lebanon. During his inaugural speech, the President of the Lebanese Republic Michel Aoun stated firmly that dealing with corruption would be one of the main goals to achieve during his tenure. Currently, all political parties are describing corruption as the main threat to Lebanon future and economic stability and launched initiatives in this concern.

Efforts to assess the Sustainable Development Goals (SDGs) implementation began three years ago and particularly in September 2015 during a meeting at the United Nations Headquarters in New York where state Presidents and Governmental Bodies' delegates and high representatives have decided to launch the new Global Sustainable Development Goals, and committed to their implementation by 2030. This agenda is established to recognize and eradicate all sorts of global commons affecting humanity in general (i.e. poverty, hunger, inequalities, economic crisis, social crisis and so on). Each of these problems is addressed in goals and targets aiming to encourage governments to set policies and strategies to achieve sustainable development in three different dimensions (economic, social and environmental).

As a matter of follow-up on this agenda, the Lebanese former Prime Minister (H.E. Tammam Salam) pledged commitment of the Lebanese state to the United Nations sustainable development goals agenda of 2030 at the Summit on Sustainable Development on 26 September 2015 in New York. Several initiatives were introduced by the Lebanese government towards this end which are highlighted as follows: the signature of SDG project document on June 20, 2017. The establishment of the national committee to lead the implementation of the 2030 Sustainable Development Goals agenda by decision No. 203/2017 based on decree No. 2 dated 18/12/2016 and decision No. 69 dated 21/6/2017 of the Council of Ministers. The three articles of the decision identified the head of the committee, listed the members and the secretariat while also defining its goals and objectives.

The target behind establishing the national committee is, to lead the implementation of the 2030 agenda and the SDGs by June 2017, under a project entitled "SDGs in Lebanon: Analysing Gaps and Reporting Progress". This is one of the promising steps taken by the Lebanese government towards effective development on the national level. This project included two main components, firstly, a "Gap Analysis" which includes a review of current relevant laws, decrees, national strategies and plans in light of the SDGs and their importance towards achieving the goals. Secondly, a "Voluntary National Review" which is a posterior step to the gap analysis phase.

The objective of this review is to propose a comprehensive institutional framework that enables the appropriate implementation of the 2030 agenda. Since its creation, the committee organized meetings while reaching out to around one thousand civil society organizations (CSOs) in the five Lebanese regions discussing the priorities of each according to the five SDG pillars. The outcomes of the meetings led to the development of the report that was presented at the High Level Political Forum in New York in July 2018 (for more information on the Lebanon Voluntary National Review (VNR) kindly visit the following link: <https://sustainabledevelopment.un.org/content/documents/19624LebanonVNR2018.pdf>).

The committee adopted a comprehensive approach to the implementation of 2030 agenda including its goals and targets, to enhance accountability of all development actors and the active consultations of the Lebanese parliament and different sectors, involving UN agencies, stakeholders from civil society organizations and the private sector.

The parallel report developed by the Lebanese Transparency Association (LTA) included an assessment of four targets (4, 5, 6 &10) under goal number 16, and the information is valid till July 2018.

Key findings under target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.

Lebanon signed the agreement on automatic exchange of financial account information. Lebanon, in compliance with the third recommendation of FATF and Art. 7 and 29 (d) of the Palermo convention by passing law No.318 in 2001 amended in 2003 adding additional offences to the list. This law allows lifting the bank secrecy, criminalizes money laundering, introduces Know Your Customer (KYC) policy, guarantees access to banking information and records from judicial authorities and criminalizes terrorism financing. The Central Bank issued a basic circular No.83 of 2001 addressed to banks and to Financial Institutions controlling the relationship with foreign correspondent banks abroad for extra control and monitoring of banking operations to fight money laundering and terrorism financing. Lebanon passed law No. 75 of 2016 cancelling bearer shares and promissory notes as a way to enhance the monitoring of transmission of shares from one owner to another. Financial Institutions and Designated Non-financial Institutions are required to undertake Due Diligence on their customers and to keep records of suspicious transactions. In the same vein, they are required to inform the Special Investigation Commission (SIC) when they suspect or have grounds to suspect that funds are the proceeds of criminal activities. Hundreds of suspicious transactions and money laundering cases are reported to the SIC every year. Financial institutions are always required to identify the beneficial owners of their clients when establishing a business relationship according to Art. 3 of the basic circular No.83 amended in 2016.

Key findings under target 16.5: Substantially reduce corruption and bribery in all their forms.

Lebanon has almost a complete anti-corruption legal framework. There are three minor gaps that should be filled in the future. The trading in influence is not criminalized by the Penal Code. The latter does not cover all the offences listed in article 23 of the United Nations Convention against Corruption (UNCAC), it also does not criminalize the continuous retention of property and justice which can be sometimes easily obstructed. The national agencies that should be operating to promote anti-corruption culture and the fight against are the following: Anti-corruption agencies, the supreme audit institutions, the judiciary and the law enforcement agencies. The Anti-Corruption Agency is yet to be established. However, a draft law on the establishment of this agency is prepared and needs to be voted on by the Lebanese Parliament. The supreme Audit Court has a margin of independence and immunity against political interference however; it witnesses several cases where it has been subject to political pressure. The same thing applies to the judiciary and to law enforcement agencies. The Judiciary's independence is guaranteed by the Lebanese constitution, in both its preamble and in the second paragraph of article 66.

Key findings under target 16.6: “Develop effective, accountable and transparent institutions at all levels”

There is a clear and straight to the point policy in Lebanon for ‘revolving doors’ however, there are no sanctions for both individuals and companies that do not comply with the law or policy controlling the ‘revolving door’. Although the illicit enrichment law applies to all public servants, it suffers from weak monitoring system to identify the changes in the public servants’ wealth. The fiscal system lacks transparency due to the constraints in the legal aspects regarding the accessibility or disclosure of the accounts held by high level politically exposed persons and their affiliates. In addition to the fact, that the financial information is not accessible by public.

Key findings under target 16.10: “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”

The Access to Information (ATI) law is perceived as one of the Lebanese government primary achievements in the history of anti-corruption framework. The Lebanese parliament passed this law on January 19, 2017. But up until this date, this law does not have an implementation plan and it is not being appropriately enforced by the public administrations. The limitations to this law in practice cannot go unnoticed. As a matter of proof, most of public administrations do not publish the information on line, and do not respect the 15 days of access to information request and up to date did not designate the access to information employee to receive citizens' request.

Recommendations

Target 16.4:

- Lebanese legislators should develop a well consolidated definition of beneficial ownership that can be adopted in the commercial law as well as in the banking and financial regulations. Additionally, the beneficial ownership chapter should specify the competent authorities that can have access to beneficial ownership information in case the information was not available to the public.
- Banks should develop clear guidelines allowing them to conduct enhanced Due Diligence for their customers or beneficial owners of PEPs or their family members or even for their close associates
- Banks in Lebanon should be able to determine the beneficial owner of the accounts, to conduct an identity verification process to transient clients, keep record of all documents related to the completed operations or to closing accounts.
- Banks should also develop indicators that can reveal the existence of money-laundering cases and to apply the due diligence that lead to suspicious operations detection. A money laundering risk assessment for legal persons and arrangements should be established.
- Lebanon should establish a national asset recovery unit/team backed-up with a well-defined policy to recover illicit assets.

Target 16.5:

- Lebanon still needs to double the efforts when it comes to promoting the independence of regulatory authorities and the judiciary, among other things, that might also need to be considered as crucial components of its effective fight against corruption.
- Lebanon should criminalize the bribery of foreign public officials and should work on developing the law that prohibits collusion in public tender. Additionally, Lebanon should establish a legal framework for lobbying.
- The legal framework regulating the financing of political parties and the candidates in Lebanon lacks some crucial components and some transparency and accountability standards. For instance, political parties and individual candidates are not required by law to disclose financial statements for their campaigns detailing itemized income and expenditure, as well as individual donors to their campaign finances additionally, they are not required to disclose annual accounts with itemized income and expenditure and individual donors.
- Annual accounts of political parties are not subject to independent scrutiny in Lebanon. There have not been any sanctions for violating political financing rules or non-compliance with disclosure requirements in the past two years.

Target 16.6:

- Banks and prosecution authorities should have an absolute right to access the data regarding the PEPs bank accounts for enhanced Due Diligence procedures. All information on bank accounts, especially when subject to public interest, should be made accessible to the public in all cases as a matter of guaranteeing actual fiscal transparency and fighting illicit enrichment.

- The Lebanese Transparency Association is lobbying for the passage of the whistle-blowing protection law. A draft law on whistle-blower protection has been adopted by the parliament's joint committees and awaiting to be adopted by the General Assembly to enter into force.

Target 16.10:

- Lebanon should enforce the Access to Information law and implement it properly as it can play a major role in the fight against corruption.

The 2030 Agenda for Sustainable Development

Spearheaded by the United Nations, the sustainable development goals (SDGs), also known as *Transforming our World: the 2030 Agenda for Sustainable Development*, is a set of 17 aspirational “global goals” and 169 targets adopted in 2015 by the 193 UN member states.

All UN member states have committed to these global goals that are intended to steer policy-making and development funding for the next 15 years. Of particular relevance to the anti-corruption agenda is SDG 16 on sustainable governance, most notably targets 16.4 on illicit financial flows, 16.5 on bribery and corruption, 16.6 on transparent and accountable institutions, and 16.10 on access to information

Global targets and indicators have been set for each goal with the expectation that they will be incorporated into national planning processes and policies. Countries are also encouraged to define national targets tailored to their specific circumstances and identify locally relevant indicators and data sources that will be used to measure progress towards achieving each of the SDG targets.

As part of its follow-up and review mechanisms, the 2030 Agenda for Sustainable Development encourages member states to conduct regular national reviews of progress made towards the achievement of these goals through an inclusive, voluntary and country-led process. In addition, each year certain state parties volunteer to report on national progress to the High-Level Political Forum (HLPF), which will next meet in July 2018 in New York. Lebanon will be among the countries reporting this year. While SDG 16 will not be reviewed in depth by the HLPF until 2019, integrity risks across the SDG framework make it essential to monitor national progress against corruption from the outset.

Rationale for this Parallel Report

While governments are expected to take the lead in reviewing progress towards the Sustainable Development Goals (SDGs), national-level monitoring needs to go beyond the remit of governments to include civil society and other stakeholders.

This parallel report is based on data collected by the Lebanese Transparency Association. The report has been developed in response to three key issues related to the official SDG monitoring processes: the multi-dimensional nature of SDG targets, data availability and perceived credibility of data generated by government agencies. Collectively, these limitations provide a strong rationale for an independent appraisal of the government's anti-corruption efforts in the context of the Sustainable Development Goals.

Firstly, several of the targets under Goal 16 are multi-dimensional in the sense that they measure broad concepts like “corruption” which cannot be adequately captured by a single indicator. Moreover, the indicators in the official global set do not sufficiently cover the full ambition of the targets. For instance, target 16.5 seeks a substantial reduction in corruption and bribery “in all their forms”, but the only approved global indicators measure bribery between public officials and

the public or business. There are no measures of corruption within or between governments or other forms of non-governmental corruption. For some targets, the selected global indicators fail to capture critical aspects. For instance, target 16.4 seeks to combat all forms of organised crime, but there is no official indicator that measures organised crime nor an indicator related to strengthening the recovery and return of stolen assets.

This parallel report seeks to provide a more comprehensive picture of national anti-corruption progress across a range of policy areas.

Secondly, even where the official indicators are themselves capable of capturing progress towards SDG 16 targets, there is an absence of data to speak to these indicators. Many of the global SDG 16 indicators rely on data that is not regularly produced or currently have no established methodology or standards for data collection.

This parallel reporting exercise is partly an effort to compensate for insufficient coverage of and data availability for official SDG 16 indicators by presenting alternative indicators, data sources and proxies.

Finally, the official assessment of progress made towards the SDG targets will rely on data generated by government agencies, particularly national statistics offices. The reliability and credibility of official data may be open to question for two reasons. First, in some settings, national statistics offices may simply be overwhelmed by the task of producing data for 169 targets. Second, politically sensitive targets, such as those related to corruption and governance, require that governments assess their own efficacy; illicit financial flows (16.4) may involve government officials, corruption (16.5) may involve government elites, while governments may be restricting information, or even targeting journalists, trade unionists or civil society activists (16.10).

Given the challenges described above, independent analysis is vital to complement and scrutinise official government progress reports related to SDGs 16.4, 16.5, 16.6 and 16.10. This parallel report is an attempt to do just that.

The information gleaned from the parallel reporting exercise and presented here in this report can be used as an input into two key processes. At the global level, this information can be used to complement National Voluntary Reviews at the High Level Political Forum in July 2018. Nationally, this information generated can feed into the governmental SDG review processes taking place on a rolling basis in each country.

Introduction

The government of Lebanon declared commitment towards the effective adoption and implementation of the Sustainable Development Goals (SDG) 2030 agenda at the 2015 Summit in New York. The first step taken by the Lebanese Council of Ministers was the signature of the SDG project entitled “SDGs in Lebanon: Analysing Gaps and Reporting Progress” in June 2017 followed by the establishment of an independent national committee, chaired by the Prime Minister, leading the implementation of the agenda. The mission of the committee is to coordinate with national stakeholders involving UN agencies, the private sector and a distinctive number of civil society organisations in all the Lebanese regions to extract their priorities in relation to the five SDG pillars. The committee’s efforts have generated one major outcome, the origination of an inclusive national sustainable development roadmap outlining the appropriate policies, institutional frameworks, strategies and action plans to well execute the project goals.

The committee organized workshops, consultation sessions and meetings with national stakeholders to prepare the Voluntary National Review (VNR). The review presents the current conjuncture of the SDG implementation in Lebanon alongside the areas where the compliance with the 2030 agenda is still weak or absent. The UN Secretary General provides guidelines for the preparations of the VNR which were taken into consideration while formulating the review.

In 2016, a paradigm shift can be highly noticeable in the Lebanese national political discourses and agendas. Moving away from the mainstream general development plans to prioritizing the fight against corruption on the national level is stated in almost all political speeches and programs of the Lebanese political parties and candidates to the 2018 parliamentary election that was held in May.

There are several positive anti-corruption practical steps taken by the government of Lebanon which all are mentioned in this report, however, their effectiveness is not measured. In other words, there are no national indicators for SDGs and anti-corruption procedures, measuring their actual implementation progress status. Therefore, the following report can be categorized mostly as a qualitative study rather than quantitative. The operationalization of the SDGs on the national level is almost absent, however, the qualitative analysis reflects clearly the positioning of Lebanon vis-à-vis the execution of the SDGs agenda and in accordance to other countries in the world.

This report includes the study of goal 16 of the 2030 agenda entitled “Peace, Justice and Good Institutions” and particularly targets 4, 5, 6& 10 which all of them combined represent all the requirements for a consolidated analysis on the anti-corruption national status in a certain country.

Since 2016, the government of Lebanon has taken several important stepladders aiming to fight corruption. According to the Global Corruption Barometer of 2017, 30% of respondents stated that their government performs “well” at fighting corruption in government. In January 2017, Lebanon expressed its intention to join the Extractive Industries Transparency Initiative (EITI), and passed the Access to Information law. In April 2018, the Office of the Minister of State for Administrative Reform (OMSAR) prepared the first National Anti-Corruption Strategy that need to be adopted by the Council of Ministers to enter into force. Additionally, in July 2018, the draft law on the whistleblowing protection was approved by the parliamentary joint committees and awaits the adoption by the General Assembly of the Parliament. Finally, a new parliamentary elections’ law was ratified in 2017, guaranteeing a wider representation based on proportionality.

Methodology

This report provides an overview which does not only limit to corruption in its narrow meaning but rather it went beyond that by covering a number of related policy areas. A questionnaire filled by Lebanese Transparency Association (LTA) pertaining to the national legal and institutional frameworks which are later scored based on an evaluation guidance mentioned in the questionnaire. Scored questions will require researchers to assign a numerical value to their country’s legal framework, based on guidance provided in the question. Each numerical value will correspond to one of the following five scores:

- Dark Green / 1
- Light Green / 0.75
- Orange / 0.5
- Light Red / 0.25
- Dark Red / 0
- Grey / Not applicable or no data available

There are three types of questions in this questionnaire:

- A number of questions pertaining to the de jure legal framework contain “scoring” references. Please provide a scoring or rating suggestion, based on information you have identified. Details about the scoring process are provided in the methodological scoring document, and a list of all the questions and an overview of the scores is provided in this spreadsheet. Scored questions are highlighted in this colour.

- Alongside the score, there will be an opportunity to provide a brief narrative to answer the question and addressing de facto implementation and compliance. Narrative questions are highlighted in this colour.
- Information and data from relevant third party assessments will also be requested. These questions are highlighted in this colour.

The research in Lebanon started in May 2018 and ended in July 2018. The resources varied between interviews with members of the committee, national public reports, official websites of ministries and their publications and FIU's annual and periodical reports, international organization's publications and archives.

The following challenges were encountered while developing the report:

- The consultation meetings with civil society organizations working on the national action plan of the SDG implementation in Lebanon was short and concise;
- Lack of online data availability;
- Due to the delicacy of the topics of this report, limited information are made available to the public;
- If found, the data are outdated sometimes;
- Lack of national indicators measuring the policy areas studied.

National progress report

Regarding all the critical political and security conditions that constrained national policy-making and which Lebanon went through especially throughout the past couple of years, the country managed to comply with its commitment towards the SDGs 2030 agenda by producing the country's first VNR for the international community in 2018.

The VNR includes a concrete reflection of the current status of the Lebanese policies and strategies. The information to complete the VNR were collected from primary sources and reviewing secondary sources. The primary sources relied on consultations with key ministries, parliament and other state entities. The secondary sources relied on official documents and data collection. A questionnaire was also circulated to all relevant public sector administrations to collect info on national policies and strategies. A ministerial committee, chaired by the Prime Minister, was formed and included fifty state officials, representatives from civil society and private sector forming a participatory approach. Coordination and raising awareness of the SDGs and their integration into the national policies and programs were the main tasks of the committee. The latter is also responsible for building a national data base to assess achievement towards the SDGs and reviewing regularity the progress using the VNR process. The first meeting of the national committee was held in March 2018 under the leadership of the Prime Minister and the participation of the latter's deputy. Thematic groupings were formed for the four of the 5 Ps.

- 1) People
- 2) Planet
- 3) Prosperity
- 4) Peace, justice and strong institutions
- 5) Partnership (it is a cross-cutting policy for all the previous ones)

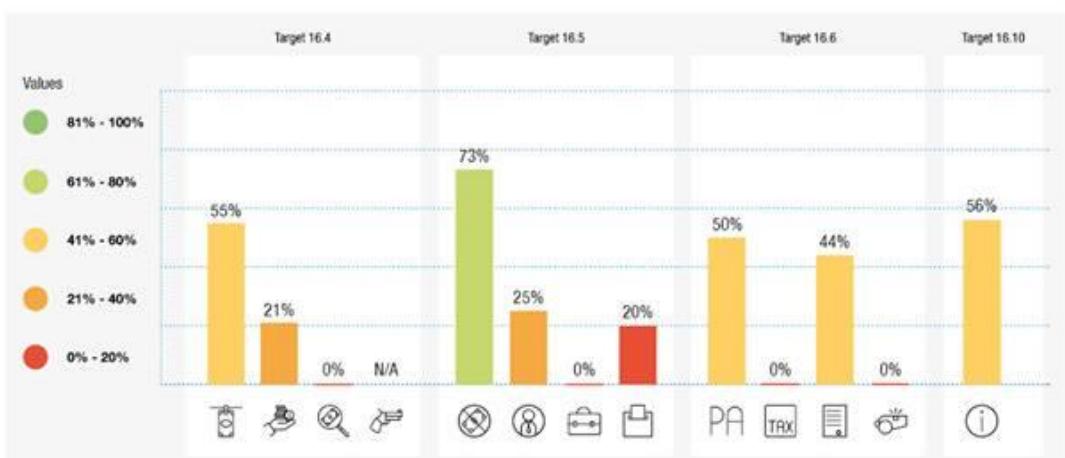
The UN agencies are providing technical support to the ministries and stakeholders. The progress report on targets 16.4, 16.5, 16.6 and 16.10 was published during the High Level Political Forum (HLPF) at the UN in July 2018.

COUNTRY LEGAL SCORECARD*

LEBANON

SDG AGGREGATE VALUE

Target 16.4 Score	35%
Target 16.5 Score	50%
Target 16.6 Score	33%
Target 16.10 Score	56%



POLICY AREA

Target 16.4



Target 16.5



Target 16.6



Target 16.10



* This scorecard is simply intended to assess whether a given country's legislative and institutional anti-corruption framework is in line with international best practice. It does not assess compliance with the legislative framework or the effectiveness of its implementation.

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the global coalition against corruption

Background

1. National SDG implementation plan and monitoring process

1.1 Has the government taken steps to develop an SDG action plan on how to implement the agenda 2030 at the national level?

In June 2017, a national committee was established to lead the implementation of the 2030 agenda and the SDGs in Lebanon under a project entitled “SDGs in Lebanon: Analyzing Gaps and Reporting Progress”¹. This is one of the promising steps taken by the Lebanese government towards effective development on the national level. This project contains two main components, firstly, a “Gap Analysis” which would include a review of current relevant laws, decrees, national strategies and plans in light of the SDGs and their importance towards achieving the goals. Secondly, a “Voluntary National Review” which will proceed the gap analysis phase. The objective of this review is to propose a comprehensive institutional framework which would enable the appropriate implementation of the 2030 agenda². Since its establishment, the committee organized meetings while reaching out to around one thousand civil society organizations (CSOs) in the five Lebanese regions discussing the priorities of each of these regions according to the five SDG pillars. The outcomes of these meetings led to the development of the report that will be presented at the High Level Political Forum in New York in July 2018³. The committee adopted a comprehensive approach to the implementation of the 2030 agenda including its goals and targets, to enhance accountability of all development actors and the active consultations of the Lebanese parliament and different sectors, involving UN agencies, stakeholders from civil society organizations and the private sector⁴.

On 12 October 2017 and in connection to the World Bank Group and the International Monetary Fund 2017 spring meetings, a two-day workshop was organized by the General Secretariat of the Lebanese Parliament in cooperation with UNDP Lebanon, discussing the role of the Lebanese Parliament in implementing the SDGs in Lebanon. The two-day workshop focused on two milestones in the implementation process: The focus on the SDGs vis-à-vis transportation, energy and water on one hand, and the establishment of parliamentary action plan for the implementation of the SDGs on the other hand, emphasizing a “hands-on” approach of the implementation under the Lebanese range of capacity⁵.

1.2 Which government body or bodies are in charge of the implementation of the national SDG implementation process and in particular concerning the implementation of SDG 16?

The Lebanese former Prime Minister H.E. Tammam Salam pledged commitment of the Lebanese state to the United Nations sustainable development goals agenda of 2030 in a speech delivered at the Summit on Sustainable Development on 26 September 2015 in New York. Several initiatives were introduced by the government towards this end which are highlighted as follows: the SDG project document was signed on 20 June 2017⁶. The national committee leading the implementation of the 2030 Sustainable Development Goals agenda was established by the decision No. 203/2017 based on decree No. 2 dated 18/12/2016 and decision No. 69 dated 21/6/2017 of the Council of Ministers. The three articles of the decision identified the head of the committee, listed the members and the secretariat and defined its objectives and goals. It is worth mentioning that the committee is headed by the Prime Minister and contains more than 50 members, including representatives of almost all ministries, public institutions, and civil society organizations, among others. The responsibilities of

¹ https://docs.wixstatic.com/ugd/2f9000_b9258d8ba6774c03b8b7c3d025c2a8f6.pdf

² <https://www.ministryinfo.gov.lb/en/14066>

³ <https://sustainabledevelopment.un.org/content/documents/986lebanon.pdf>

⁴ http://www.socialwatch.org/node/17792#_edn2

⁵ <http://www.lb.undp.org/content/lebanon/en/home/presscenter/articles/2017/10/17/the-parliament-and-the-journey-to-the-implementation-of-sdgs-in-lebanon.html>

⁶ <https://www.sdglebanon.com/services>

this committee include: coordinating national efforts towards implementing the sustainable development goals, integrating these goals into the national plan of action and policies, contributing in disseminating knowledge of SDGs among citizens, developing national indicators to measure national progress in the implementation process and providing input on the preparation of a national report concerning the performance of the country vis-à-vis the fulfilment of the SDGs to present it to the United Nations on a periodic basis⁷.

1.3 Has civil society been able to contribute to the selection of national indicators concerning SDG 16 and have there been any formal discussions about how anti-corruption targets will fit into the implementation of a national SDG plan?

For example, has there been an opportunity to work with national statistical offices to map the availability of data for the global indicators at the national level, or to develop complementary national indicators for SDG 16? In case there is a national SDG action plan in place, are there anti-corruption targets included in it?

The national committee on the development of the Voluntary National Report (NVR) focused on reviewing the implementation of the five pillars of sustainability, rather than focusing on the 2018 forum themes of SDGs, 6, 7, 11, 12, 15, 17 in addition to the remaining goals including target 16. The NVR report was not published prior to the forum and was not accessible at the time this report was finalized in late June 2018. The transparency issue was mentioned in the VNR CSO's section as one of the challenges CSOs are facing without however going into more details⁸.

1.4 Has the development of national SDG implementation reports relating to SDG 16 been open and inclusive? Has civil society had an opportunity to provide input or review draft version of the official national implementation reports?

The National Committee did not review each goal; it rather focused on assessing the main five pillars of sustainability of the SDG 2030 agenda.

1.5 How do you assess the quality of the official assessment and the data provided in official implementation reports for targets 16.4, 16.5, 16.6 and 16.10?

N/A

1.6 Are there any salient corruption or governance issues which are omitted or not adequately addressed in the official national report?

N/A

2. Recent developments

2.1 Has the country adopted a national anti-corruption action plan?

Having ratified the United Nations Convention against Corruption (UNCAC) in 2009 and in compliance with article 5 of the convention, two committees were formed to develop the national anti-corruption strategy: The Ministerial Anti-Corruption Committee, and a technical committee. The former is comprised of the Minister of Finance (MoF), the Minister of Justice (MoJ) and the Minister of Interior and Municipalities (MoIM) and headed by the Prime Minister, according to decision No.156 dated 27/12/2011 amended by decision No.69 dated 21/03/2017. This committee is responsible for overseeing the development of the national anti-corruption strategy, monitoring Lebanon's enforcement of its obligations emanating from the United Nations Convention against Corruption (UNCAC), strengthening Lebanon's participation in the Arab Anti-Corruption and Integrity Network

⁷ https://docs.wixstatic.com/ugd/2f9000_9d91b05ef4a04775991f17487c028cec.pdf

⁸ Interview conducted with a representative from the SDG National Committee for Lebanon

(ACINET) and coordinate with donors to support Lebanon's efforts to fight corruption⁹. The latter provides supportive functions to the former and is headed by the Office of the Minister of State for Administrative Reform (OMSAR) who also happens to be the Deputy Head of the Ministerial Committee, according to decision 157 dated 27/12/2011 amended by decision No.68 dated 21/03/2017. The members of this committee should be the representatives of three different ministries, regulatory bodies and banks. This committee has many responsibilities, among them: conducting national assessments for the purpose of enforcing the UNCAC and ensuring the participation of Lebanon in the Convention's Implementation Review Mechanism, coordinating the collection of legislative and regulatory instruments and information relating to fighting corruption within public administrations, conducting consultations with Members of Parliament (MPs) and CSOs as well as other stakeholders. Attending regional and international conferences and meetings related to anti-corruption and other issues¹⁰.

The committee responsible for establishing the national anti-corruption strategy was established on 18 February 2016 by the Minister of State for Administrative Reform (decision No.174 dated 18/02/2016). After over a year of concerted efforts and ongoing consultations with Ministers, MPs and representatives of the public and private sectors as well as CSOs, the sub-committee assembled the Ministerial and Technical committees to ask for their feedback and inputs on the draft strategy document, based on which the document was finalized and presented to the Prime Minister on 27 April 2017¹¹. The participants at the meeting agreed on starting the implementation plan before the establishment of the national anti-corruption strategy. On 2 October 2017, the Minister of State for Administrative Reform asked for the support of the UNDP and its regional project on Anti-Corruption and Integrity in Arab Countries (ACIAC) to develop the implementation plan. An expert team was formed and started its work in January 2018. The draft of the national anti-corruption strategy in Lebanon was launched on the 24th of April 2018 that still needs to be voted and approved by the Council of Ministers. OMSAR had taken a participatory approach in developing strategy by holding a series of consultative meetings with CSO representatives, including LTA.

Score 0.5

1.2. % of respondents' state that their government performs "well" at fighting corruption in government, according to TI's Global Corruption Barometer.

In 2017, 30% of respondents stated that their government performs "well" at fighting corruption in government. In 2016, 26% of respondents in Lebanon stated that their government performs "well"¹².

2.3 Has the country's current political leadership made public declarations about fighting corruption in the past two years? Have there been high-level commitments by the current administration to strengthen the legal framework, policies or institutions that are relevant to preventing, detecting and prosecuting corruption?

Fighting corruption was proven to be among the national priority commitments of Lebanon. The list of public declarations stated by the Lebanese political leaders is not exhaustive. After the election of H.E. Michel Aoun as president of the republic in 2016, there has been a commitment at the political level translated in H.E. speech after he was sworn at the parliament on 31 October 2016. President Aoun claimed that the key to the socio-economic reform cannot be achieved unless a transparent system is consecrated embracing the legal system that helps preventing corruption by selecting an anti-corruption committee and activating the regulatory agencies as well as guarantee their independence.

⁹ http://www.undp-aciac.org/publications/ac/2012/Lebanese%20decrees/156-2011_AC_Min%20Com_EN.pdf

¹⁰ http://www.undp-aciac.org/publications/ac/2012/Lebanese%20decrees/157-2011_AC_Tech%20Com_ENG.pdf

¹¹ <http://nna-leb.gov.lb/en/show-news/78689/Hariri-chairs-meeting-of-committee-tasked-to-develop-national-anti-corruption-plan>

¹² <https://www.transparency.org/files/content/feature/2016 MENA GCBInfographics EN.pdf>

On November 3, 2016, the Ministry of State for Combating Corruption was established and Mr. Nicolas Tueni was appointed as its Minister¹³. This step can be seen as an important expression of will from the political elite to put an end to the widespread corruption in Lebanon. However, despite all the efforts that were done in this regard, several restraints on the Ministry renders the institution ineffective towards alleviating the state of corruption on the national level: The Ministry lacks comprehensive internal bylaws and an organizational structure, as well as an office in Beirut¹⁴. Moreover, the Ministry is a Ministry of State, meaning that the Minister attends ministerial meetings and has the right to vote but does not have a ministerial portfolio. In other words, this Ministry lacks specific responsibilities within any particular area of a governmental department, such institutional limitations as well as inadequate resources obstructs the Ministry from achieving any beneficial impact.

Additionally, the Lebanese Minister of Finance, Ali Hassan Khalil, officially acknowledged the existence of corruption within the Lebanese Customs at Port Beirut and pledged to put an end to it by having Higher Council of Customs review all complaints regarding the Lebanese Customs as well as other measures¹⁵. Preceding the Lebanese Parliamentary elections on 6 May 2018, the Minister of State for Combating Corruption called upon the Lebanese people not to vote for corrupt politicians during the elections¹⁶. Additionally, all candidates during the 2018 Parliamentary elections have publicly announced combating corruption as a top priority.

On March 6, 2018, at the opening of the Lebanon Investment in Infrastructure Conference, Prime Minister Saad Hariri stressed the importance of reforms in the private sector and the government, including corruption, in order for the Paris IV (CEDRE) Conference to succeed¹⁷.

On the 24th of April 2018, Finance Minister Ali Hassan Khalil spoke up about the government's need to focus on combating corruption, during the launch of the Citizens Budget 2018. He stressed the need for supervisory bodies and pledges to provide more transparency through the Citizen Budget, which he says provides an overview "without ambiguity" of the government's spending over previous periods. "The Citizen Budget is a key document allowing civil society to be well-informed, to participate in decision-making and to hold the government accountable" Khalil said¹⁸.

Last but not least, the Lebanese Parliament passed the Access to Information (ATI) Law on January 19, 2017. Furthermore, the Parliament had passed a new National budget in 2017 for the first time since 2005.

2.4. Is there evidence that laws and policies are not equally applied to all officials, resulting in an increased risk for misuse of power and grand corruption?

¹³ [وزير-الدولة-لشؤون-مكافحة-الفساد-نقولا/](http://alafkar.net/)

¹⁴ <https://www.lebanondebate.com/news/363875>

¹⁵ The Daily Star, 'Khalil Pledges Customs Corruption Crackdown'. Accessed on 25 April 2018 via: <http://www.dailystar.com.lb/Business/Local/2017/May-04/404396-khalil-pledges-customs-corruption-crackdown.ashx>

¹⁶ The Daily Star, 'Tueni Calls on Voters to Dump 'Corrupt' Politicians'. Accessed 24 April 2018 via: http://www.dailystar.com.lb/News/Lebanon-News/2017/Sep-20/419981-tueni-calls-on-voters-to-dump-corrupt-politicians.ashx?utm_source=Magnet&utm_medium=Entity%20page&utm_campaign=Magnet%20tools

¹⁷ The Daily Star, 'Reforms Integral to Success of Paris IV'. Accessed on 25 April 2018 via: http://www.dailystar.com.lb/News/Lebanon-News/2018/Mar-06/440445-paris-iv-spending-to-be-transparent-tied-to-reforms-hariri.ashx?utm_source=Magnet&utm_medium=Recommended%20Articles%20widget&utm_campaign=Magnet%20tools

¹⁸ Lebanese Ministry of Finance, Citizen Budget Report 2018 (Arabic). Accessed on 25 April 2018 via: http://www.finance.gov.lb/en-us/Our_Latest/Latest%20News/English/Citizen%20Budget%202018.pdf

Two main obstacles are hindering the equal and equitable application of laws and policies to all officials: the absence of accountability mechanisms due to the lack of judicial independence, and political immunities.

The principle of “independence of the judiciary” is explicitly stipulated in many decree laws (i.e. Decree Law No.150 of 16 September 1983). However, many limitations still hinder its effective application. The limitations are related on one hand, to the composition of the High Judicial Council (HJC) and the process of electing the judges according to the “Taif” agreement which lacks any stipulations regarding important and necessary guidelines on judicial appointments and elections. On the other hand, to the powers granted to the HJC, meetings and decision-making mechanisms of the HJC in addition to financial and administrative dependence. In other words, the budget allocated to the Ministry of Justice to run the judiciary totals between 0.7% and 0.8 % of the National budget, meaning that the ministry of justice is the entity in charge of the financial matters of the judiciary. Moreover, the executive branch is also responsible for the administrative management of the courts, consequently, effectively depriving the HJC of any administrative and financial independence. Also, among others, there is regular criticism of the selection, training, ranks, retirement and remuneration of the judges¹⁹. The political, religious and media interventions can never go unmentioned due to their rival existence in this sector specifically. The HJC plays an important role in the Lebanese judicial system –Hence, the continuous interference of politicians is hindering its activities. As per the religious interference, the positions at the HJC are allocated on a sectarian basis (i.e. the president is a Christian Maronite; the Attorney General is a Sunni Muslim; the Head of the Judicial Inspectorate is a Sunni Muslim, etc.). Therefore, this institutionalization of religious affiliation forming the core composition of the HJC serves as a valid leeway for religious interference from political and communitarian personnel; as the political leaders of particular communities will take advantage of this to community balance to interfere in the appointments of judges. Consequently, this reflects unconstructively on the judiciary as a whole and violates the principles of equality of the judiciary.

The independence of the judiciary necessitates the existence and the guarantee of fair trials during all steps of judicial process which, most of the time, is not implemented due to political interference. In other words, corruption threatens the application of fair trials for the simple reason that financial and material interests as well as immaterial ones embody the judicial process and serves for its impartiality²⁰.

Parliamentary immunities are defined as the series of constitutional provisions granting a particular system of norms that are applied only to MPs however they are not being appropriately applied. Art. 39 and 40 of the Lebanese Constitution stipulate parliamentary immunities. These two articles require the following: It is prohibited to file any criminal case against the MPs for expressing, whether orally or in writing, and whether inside or outside the parliament, their opinions and thoughts during the whole period of their mandate even if slander, insults and dishonoring were involved; and even if these thoughts constitute crimes prohibited by the Lebanese criminal law. Moreover, it is prohibited to take any criminal proceedings against MPs during the parliamentary session or to arrest them if they committed any criminal act unless the parliament granted his approval to do so. This does not include the moment when they get caught in *flagrante delicto*²¹. As a result, there were no allegations against MPs regarding corruption in recent years or previously since Lebanon gained its independence in 1943.

Based on the above, it is noticeable and fair to argue that these two elements combined are sufficient evidence to conclude that the laws and policies are not being equitably applied to public officials, in

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http://www.constitutionnet.org/sites/default/files/the_independence_and_impartiality_of_the_judiciary_in_lebanon.pdf

²⁰

http://www.constitutionnet.org/sites/default/files/the_independence_and_impartiality_of_the_judiciary_in_lebanon.pdf

²¹ <https://www.lebarmy.gov.lb/ar/content/الحسانة-النيابية>

addition to the absence of accountability measures. This is largely due to the degree of political interference into the operations and decisions of the judiciary, as well as the legal protection provided to politicians by the constitution.

2.5 Have there been significant anti-corruption reforms or advances in the fight against corruption in the past two years?

The Access to Information Law (ATI) was passed by Parliament on January 19, 2017, after it was submitted to Parliament years earlier, on April 9, 2009. The ATI law refers to the establishment of a National Anti-Corruption Commission (NACC). However, the law on the establishment of the NACC is yet to be debated and voted upon in Parliament. The objective of this commission is the reduction of the high level of corruption within Lebanese public institutions.

Other modest reforms have been introduced, including the advancement of e-governance within the Ministry of Health (MoH) and Ministry of Finance (MoF). In 2013, the MoF launched an online portal where Lebanese citizens and businesses could declare their taxes, as well as pay certain taxes. Such an effort has significantly reduced interaction between citizens and the public administration - in turn, reducing the occurrences of bribery. Similarly, the MoH introduced such reforms towards modernizing the administration - allowing citizens to pay bills and schedule appointments through an online platform.

2.6. How do you assess the space for civil society and the media investigate and highlight corruption risks and cases, and to demand accountability from the country's political and economic elite?

The Lebanese constitution provides freedom of the press. However, the laws are contradicting and ambiguous, leaving space for various interpretations and confusion. Several incidences have indicated that the space for the media to investigate and highlight cases of corruption is becoming increasingly restricted. This is partly due to repeated lawsuits filed against journalists and whistle-blowers who attempt to expose corruption cases. Due to the content of Article 75 of the Press law that stipulates "contradicts public ethics or is inimical to national or religious feelings or national unity" (the sentence is not complete) many journalists are reluctant to disclose cases of corruption, worrying that they may be prosecuted²². For instance, journalist Mohamed Nazzal, and the Al Akhbar newspaper he works at, were fined 12 Million Lebanese Pounds (approx. 7,000 Euro) each in addition to 15 Million Lebanese Pounds (approx. 8,500 Euro) interest on defamation charges linked to Nazzal's 2013 article on judicial corruption. Racha Abou Zaki, former *journalist* at Al Akhbar newspaper, faced libel charges for an article published investigating corruption and embezzlement linked to the Ministry of Finance. Moreover, the Free Patriotic Movement won 9 judgments in the court, 8 of them against the newspaper Al-Mustaql, and were awarded compensation of 136,450 US-Dollars²³.

Freedom of expression, once genuinely guaranteed, will help empower civil society as well as the media as both of these society groups have a great influence on society and on policy making. Civil society organizations play an essential role in safeguarding rights, good governance and freedom, raising awareness, reducing political tensions, monitoring politics, among others and cannot fulfil their roles without the actual guarantee and implementation of this principle. However, there have been no clear efforts by the government to push for passing the Whistle-blower Protection draft law - which was submitted to the Parliament in 2010.

²² <http://en.sharq.org/wp-content/uploads/White-Papers-Book-EN.pdf>

²³ <https://freedomhouse.org/report/freedom-press/2015/lebanon>

Target 16.4: “By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organised crime”

Indicator 16.4.1: Total value of inward and outward illicit financial flows (in current United States dollars)

Indicator 16.4.2: Proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments.

3. Anti-Money Laundering

3.1. Has the country adopted a law to criminalize money laundering, in line with recommendation 3 of the FATF?

The third recommendation of the Financial Action Task Force (FATF) stipulates the following: “Countries should criminalize money laundering on the basis of the Vienna convention and the Palermo convention. Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences”²⁴.

Lebanon signed the Palermo convention on 9 December 2002 and ratified it on 5 October 2005²⁵ and ratified the United Nations against Illicit Traffic in Narcotic Drugs and Psychotropic Substances on 11 March 1996²⁶ and ratified the 2000 United Nations Convention against Transnational Organized Crime on 5 October 2005²⁷.

Lebanon complied with the third recommendation of FATF and Art. 7 and 29 (d) of the Palermo convention by passing law No.318 in 2001²⁸amended in 2003 and adding additional offences to the list²⁹. This law allows the lift of bank secrecy when needed, criminalizes money laundering in the broad sense of the term and did not limit the offense to drugs but it went beyond that to authorize suspicious transactions reporting. It introduces the Know Your Customer (KYC) policy and guarantees access to banking information and records from judicial authorities. The 2003 amendment added the criminalization of terrorist financing to the list of offences. Law No.318 widened the list of financial institutions included within the Banking Secrecy Law of September 1956 to include financial intermediaries, whether they are banks or companies, real estate and construction companies, dealers in high-value commodities insurance companies, among others (Art. 4 of Law No.318). Art. 5 of Law No.318 refers to the Banking Secrecy Law of 1956 requires all financial institutions subject to the provisions of the law to avoid their involvement in concealing laundered funds resulting from the offences listed by the law through controlling their operations with their clients and provided a list of obligations banks should follow one month after the enforcement of the law. The first obligation that banks should abide to is to identify their permanent clients and to be able to determine the beneficial owner, second is to conduct an identity verification process to transient clients only when the value of the operation exceeds a certain amount. Banks should keep record of all documents related to the completed operations or to closing accounts. They should also develop indicators that reveal the existence of money-laundering cases and to apply the due diligence that lead to suspicious operations detection. Banks should desist from submitting erroneous statements that deceive administrative and judicial authorities. Lastly, authorized financial institutions' auditors must comply with the provisions of the law and that the Governor of Banque du

²⁴<http://www.fatfgafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf>

²⁵ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en

²⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VI-19&chapter=6&clang=_en

²⁷ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&clang=_en

²⁸ http://www.bccl.gov.lb/pdf_files/laws-pdf-files/law318.pdf

²⁹ <http://bankersacademy.com/resources/free-tutorials/57-ba-free-tutorials/661-aml-lebanon>

Liban is the authority any violation detected should be reported to (Art. 5 of Law No.318). Law No.44 of November 24, 2015 Anti-Money-Laundering and Terrorist Financing (AML/TF) which amended and replaced Law No. 318, merges the principles of banking secrecy with the need to remain compliant with the international anti-money laundering standards and best practices.

The Banque du Liban issued a basic circular No.83 of 18 May 2001 addressed to Banks and also to Financial Institutions controlling the relationship with foreign correspondent banks abroad, the relationship with customers and due diligence measures, guidelines for certain operations and customers in addition to specifying the tasks for committees and administrative units in charge of the control of operations for fighting money laundering and terrorist financing³⁰. Another intermediate circular No. 371 of 11 September 2014 amended the regulations and control of Financial and Banking Operations for Fighting Money Laundering and Terrorism Financing. In October 2016, the Lebanese parliament passed Law No. 55/2016 on exchange of information for tax purposes. The central bank, in the framework of complying with the provisions of the law, issued a basic circular No.139 related to common reporting standard. This circular sets up for new reporting requirements and due diligence procedures for identifying reportable accounts in compliance with international recommendations of the OECD Global Forum on Transparency and Exchange of information for Tax purposes.

Score 0.75

3.2. Has the government through the last three years conducted an assessment of the money laundering risks related to legal persons and arrangements, in line with the principle 2 of TI's "Just for show" report? Has the final risk assessment been published?

No

Score 0

3.3. Are financial institutions (Banks) prohibited by law from keeping anonymous accounts and are they required to undertake due diligence on their customers, in line with FATF recommendation 10?

Recommendation 10 under the title "Bearer shares and nominees" stipulates, countries should address the misuse of legal person and legal arrangements which may obstruct transparency including: a) prohibiting the ongoing use of bearer shares and the creation of new bearer shares, or taking other effective measures to ensure that bearer shares and bearer share warrants are not misused and b) taking effective measure to ensure the legal person which allows nominee shareholders or nominee directors are not misused. Bearer shares are company shares that exist in a certificate form and not on the company's registered office. The name of the shares owner does not appear on the Companies Registration Office (CRO) and consequently in case of transfer ownership, no need of a signed share transfer but a simple handing over possession of the share certificate.

Lebanon, complying with this recommendation, passed Law No.75 dated 28 October 2016, cancelling bearer shares and promissory notes as way to make the monitoring the transmission of shares from one owner to another³¹. In February the same year, Banque du Liban issues intermediate circular No.411 stating that: "Banks and financial institutions are prohibited from performing any kind of banking or non-banking or financial or non-financial operations, whether recorded in or off-balance sheet, with companies or mutual funds whose stocks and shares are totally or partially issued in bearer form, or with companies or mutual funds that are directly or indirectly owned by companies or mutual funds whose stocks and shares are totally or partially issued in bearer form"³². The due diligence convention on the commitment by Banks operating in Lebanon to combat money-laundering of illegal drug-trade funds was approved on November 15 in 1996 by an ordinary general assembly of the association of Banks in Lebanon. This agreement gained its effectiveness on 20

³⁰ www.bdl.gov.lb/circulars/download/3/en

³¹ <http://www.menafatf.org/sites/default/files/Newsletter/Lebanon%20Exit%20Report%20EN.pdf>

³² <http://blog.blominvestbank.com/20596/companies-adjust-laws-accordance-prohibition-bearer-shares/>

February 1997 on the same day of signature by the Association on one hand and the operating banks in Lebanon on the other hand. All operating banks in Lebanon have signed this agreement.

Score 1

3.4. Are Financial Institutions required by law to inform relevant authorities when they suspect (or have reasonable grounds to suspect) that funds are the proceeds of criminal activity, in line with FATF recommendation 20?

Recommendation No.20 of FATF: "If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report, promptly its suspicions to the Financial Intelligence Unit (FIU)". Law No.318 "fighting money laundering" requires in Art. No.7 banks, credit institutions, financial intermediaries, finance lease companies, insurance companies, real estate promotions and construction companies among others to report to the Special Investigation Commission (SIC) on the detailed information of the transactions they suspect they hide money laundering³³. In the same vein, Notice No. 3 of 16 October 2001 amended by notice No. 6 of 12 November 2004 require all banks and financial institutions to attach to their report documents related to the reported operation abiding to certain procedures. As a result, the reported cases of suspicious money laundering and terrorism financing increased in 2015³⁴.

Score 1

3.5. Are designated non-financial businesses and professions (DNFBPs) – casinos, real estate agents, jewelers, lawyers, notaries, other legal professionals, accountants, and trust and company service providers – required to carry out customer due diligence, to keep records, and not to report suspicious transactions to the financial intelligence unit, in line with the FATF recommendations 22 and 23?

The DNFBPs in Lebanon include casinos, public notaries, accountants, lawyers, dealers in precious metals and dealers in precious stones and real estate brokers. Lebanon has addressed the obligation mentioned in the FATF recommendations through Art. 4 of law No. 318 which mentions the customer due diligence obligations that DNFBPs should abide to. They should keep specific records of the transactions meaning that the value of transactions exceeding the limit set by the Banque du Liban at 10,000 USD or its equivalent has to be documented and consequently reported. They should also verify the identity of customers and their addresses, based on official documents and keep copies thereof and of the documents related to transactions for a minimum period of five years³⁵. According to art. 7 of law No.318, institutions that are not covered by the banking secrecy law of 3 September 1956 are obliged to immediately notify the SIC about the information related to the suspicious transactions they think it's related to money laundering³⁶. Lawyers, accountants, public notaries and Casino du Liban are not obliged to apply to this requirement according to Law No. 318, however, upon the auditors' visits to the aforementioned places it has been noticed that suspicious transactions are either being immediately notified to the commission or some internal measures and sanctions are being taken by the entity itself in case of non-compliance to the due diligence principle³⁷. Later in 2015, Law No.44 amending Law No.318 broadened the entities listed under the DNFBPs to include public notaries, lawyers and accountants³⁸.

Score 1

³³ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.43

³⁴ <http://www.dailystar.com.lb/Business/Local/2016/Mar-08/341060-suspicious-cases-rise-in-anti-money-laundering-push.ashx>

³⁵ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.145

³⁶ Ibid

³⁷ ibid p.147

³⁸ <http://www.knowyourcountry.info/files/lebanon1.pdf> p.2

3.6. Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the beneficial owner is a PEP or a family member or close associate of a PEP?

Financial institutions are not obliged to take necessary measures for risk management in identifying whether the future customer or the current customer or the beneficial owner is identified as a Politically Exposed Person and to consequently establish policies and take appropriate measures to prohibit the misuse of technology for money laundering and terrorism financing ends. However, art.9 of basic circular No.83 on regulations on the control of financial and banking operations for fighting money laundering and terrorism financing stipulates that banks should adopt a risk-based approach to classify customers and operations according to different risk levels: Low, medium and high where foreign politically exposed persons (PEPs) who hold or have held important official positions, their family members and close associates in addition to setting up an adequate system in order to determine whether the foreign customer is a PEP³⁹. Lebanon does not cover the obligation of conducting enhanced due diligence in case where the customer is a domestic PEP.

Score 0

3.7. Does the law require enhanced due diligence by DNFBPs in cases where the customer or the beneficial owner is a PEP or family member or close associate of a PEP?

No

Score 0

3.8. Has the country signed the multilateral competent authority agreement on the exchange of country-by-country reports on key indicators of multinational enterprise groups?

Lebanon did not sign the multilateral competent authority agreement on the exchange of country - by-country reports on key indicators of multinational enterprise groups.

Score 0

3.9. Has the country signed the competent authority multinational agreement on automatic exchange of financial account information?

Yes, Lebanon is one among the 98 jurisdictions that also signed the agreement on automatic exchange of financial account information and the first information exchange would be on September 2018⁴⁰.

Score 1

3.10. How is the jurisdiction's performance on the exchange of information for tax purposes on request assessed by the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes?

According to the overall rating following peer reviews against the standard of Exchange of Information Request (EOIR) (as at April 2018) of the OECD, Lebanon is provisionally largely compliant⁴¹.

Score 0.75

3.11. What is the country's score in the Basel Institute on Governance's Basel Anti-Money Laundering Index?

Lebanon is among the countries with a high risk of money-laundering activities and according to Basel Anti-Money Laundering Index 2017, Lebanon scored 7.07 out of 10 and ranked as having the 26th highest risk out of 146 countries⁴².

³⁹ [https://sic.gov.lb/report/SIC Annual Report 2016 En.pdf](https://sic.gov.lb/report/SIC%20Annual%20Report%202016%20En.pdf) p.79

⁴⁰ <https://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/MCAA-Signatories.pdf>

⁴¹ <https://www.oecd.org/tax/transparency/exchange-of-information-on-request/ratings/>

⁴² [https://index.baselgovernance.org/sites/index/documents/Basel AML Index Report 2017.pdf](https://index.baselgovernance.org/sites/index/documents/Basel%20AML%20Index%20Report%202017.pdf)

3.12. What is the country's secrecy score in the Tax Justice Network's Financial Secrecy Index?

Lebanon's secrecy scored 72 out of 100 (100 meaning a very high level of secrecy) and its global scale weight is 0.51%⁴³.

3.13. What is the estimated illicit financial outflow of funds from your country in the latest available year, according to the Global Financial Integrity?

142 Million USD in 2012⁴⁴.

3.14. Is there evidence that money-laundering is effectively prosecuted?

In 2017, the ML/TF cases reached 597 divided between local and foreign sources. Twenty-six allegations were sent from the Special Investigation Commission to the Office of the Prosecutor General for prosecution between the month of January to the month of October in 2013. From 1 January 2013 to November 2013, Lebanon's Internal Security Forces (ISF) received 32 allegations of money laundering from Interpol and 40 requests from the SIC and has prepared files on two suspected cases of money laundering. The Lebanese judiciary arrested and charged a senior Lebanese government official and his spouse on charges of embezzling public funds and money laundering with an estimated total of \$4 Million⁴⁵.

3.15. How many suspicious transactions reports did financial institutions and different types of DNFBPs file in the last two years for which data is available?

In 2016, the SIC received up to 470 cases which means, 9% more cases compared to 2015 divided between money laundering, terrorism financing, embezzlement of private funds and forgery⁴⁶. In 42 cases, transactions were frozen and banking secrecy was lifted⁴⁷. The secretary general of the SIC claims that the cases reported in 2015 have risen 40 percent compared to 2014 and he added that the awareness and watchfulness of banks is getting more noticeable⁴⁸. He however, clarified that Lebanon is not completely compliant with the forty recommendations of the FATF and that it still needs to work harder on promulgating laws and policies to achieve this end.

3.16. Have there been any noteworthy changes or developments in the past two years that indicate an improvement or deterioration in the framework or practices to prevent and fight money laundering?

There is no data found in the last couple of years, however, the Lebanese government has done many improvements concerning preventing and curbing money laundering. The Lebanese government passed legislation leading to prevent money laundering and combat terrorism. National banks subsequently adopted AML/TF standards and practices by identifying and taking appropriate actions to mitigate these vulnerabilities and control the risks related with money laundering (ML) and Terrorism Financing (TF)⁴⁹. In addition to other basic and intermediate circulars published by the Banque du Liban guaranteeing important measures to be taken to ensure the appropriate fight against money-laundering.

4. Beneficial Ownership Transparency

4.1. To what extent the law in your country define beneficial ownership?

⁴³ <https://www.financialsecrecyindex.com/introduction/fsi-2018-results>

⁴⁴ <http://www.gfinintegrity.org/issues/data-by-country/>

⁴⁵ SIC annual report 2017. Secretary General

⁴⁶ <http://www.businessnews.com.lb/cms/Story/StoryDetails.aspx?ItemID=6044>

⁴⁷ <http://www.businessnews.com.lb/cms/Story/StoryDetails.aspx?ItemID=6044>

⁴⁸ <http://www.dailystar.com.lb/Business/Local/2016/Mar-08/341060-suspicious-cases-rise-in-anti-money-laundering-push.ashx>

⁴⁹ <https://www.creditbank.com/CorporateGovernance/AMLCFTGuideline.aspx>

Beneficial ownership is not defined in the Lebanese law from the financial perspective but there is a definition of the beneficial ownership in the Lebanese property law in art.32 that it is a real right to use something related to others and to take advantage of it, and this right inevitably falls upon the death of the beneficiary. The 'Transparency in the Oil and Gas Sector' draft law has addressed the definition of the beneficial ownership and requires the disclosure of beneficial ownership of companies operating within the sector in order to abide with the principles of transparency and accountability⁵⁰.

Score 0

4.2. Does the law require financial institutions have procedures for identifying the beneficial owner(s) when establishing a business relationship with a client?

According to the FATF, the financial institutions are the means any natural or legal person who conducts a business one or more of many activities or operations for or on behalf of a customer. Among these operations, financial leasing, money or value transfer services, issuing or managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques etc.). Banque du Liban addresses in its 3rd article of the basic circular No. 83 amended by the intermediate circular No. 421 dated May 2016, the obligation for banks and financial institutions to identify the beneficial owner and the source of funds and ensure the ongoing control of operations especially in five different instances before or upon dealing with customers or opening accounts of any kind including fiduciary and numbered accounts.

The beneficial owner has to be identified in case of Lending operations meaning that while the concluding contracts for leasing bank safes in addition to electronic transfers of funds and cashier's operations totaling or exceeding 10,000 USD or its equivalent in any other currency⁵¹. However, the financial institutions are not required to establish appropriate Due Diligence to identify the beneficial owner as PEP. Moreover, Art 5 of the law No.318 requires the identification of the ID of "the beneficial owner"⁵². Art 7 of the same law obliges each bank and credit institution to periodically re-verify the client's ID or re-identify the beneficial owner. This also applies to the holders of the accounts opened before the AML law issuance. This requires amendments and add of any information on the Know Your Customer (KYC) form in case of any change in the information stated previously or in case of subsequent changes on the client's or the beneficial owner's ID⁵³. This law applies to intermediaries' institutions where Art 1 sub section 7 stipulates that the KYC form usually signed by the customer must include an identification of the beneficial owner⁵⁴. In the same vein, Art 7 of the law requires banks and credit institutions to carry out a periodic re-verification of the customer and beneficial owner identities⁵⁵. Art 3 of the law also insists on the obligation of the financial institutions to verify the identity of their permanent as well as accessional customers, resident or not-resident and to identify the beneficial owner in order to fill out the KYC form and the beneficial owner form while opening all types of accounts, including trust and numbered accounts, lending or credit operations and rental of safe boxes⁵⁶.

Score 1

4.3. Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, etc.) have access to beneficial ownership information?

⁵⁰ http://logi-lebanon.org/uploaded/2017/9/MAWAYB5H_Transparency%20Report%20-%20V.1.8.pdf p.71

⁵¹ https://sic.gov.lb/report/SIC_Annual_Report_2016_En.pdf p.76 section 2

⁵² <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.8 No.16

⁵³ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.77 no.274

⁵⁴ ibid p.82

⁵⁵ ibid p.84

⁵⁶ ibid p.86

According to the MENAFATF report, the competent authorities may obtain information or inspect the information available on the beneficial owners and the controlling shares in the legal persons except the companies that still use bearer shares. The banking secrecy remains however, one of the hardest challenges despite the public character of the commercial register in Lebanon. The only mean to obtain information about the companies and the financial institutions covered by the banking secrecy law and anti-money laundering is the commercial register and the provisions of law no.318 in cooperation with the Lebanese competent judicial system⁵⁷. Unfortunately, the timely and up-to-date access to information on beneficial owners remains impossible because of the absence of a centralized commercial register gathering all data. There are commercial registers for each district that are not connected to a centralized information network⁵⁸. The possibility of letting the SIC obtain timely access to sufficient, accurate and updated information on the details related to the beneficial owners and control shares in the fiduciary contracts is not yet confirmed⁵⁹.

Score 0.5

4.4. Which information sources are competent authorities allowed to access for beneficial ownership information?

There is no register or information source that includes data on beneficial ownership.

Score 0

4.5. Which public authority supervises/holds the company register?

According to art. 23 of the Lebanese code of commerce that the Lebanese legislator grants the judicial system the task to supervise the commercial register (Ministry of Justice) ⁶⁰.

4.6. What information on beneficial ownership is recorded in the company registry?

The commercial register in Lebanon is divided into two main parts: the first part is the general register and the second part is the special register. Each of these parts contain different types of information. In relation to the general register, it is where the traders and the companies are registered and the special register is where the commercial institutions and its contracts are registered. The following information should be mentioned in the general register:

- First and last name of all the partners except for the shareholders and partnership company partners
- The nationality of each.
- Date and place of birth.
- Name of the commercial company and its denomination.
- The object of the company and the places where the company has branches or agencies whether inside or outside Lebanon.
- The names of the partners or other people licensed to run the company and manage its affairs or sign on behalf of it.
- The capital and amounts or securities of the company have to be submitted for the shareholders or the partnership company partners.
- The value of what is presented to the company whether in cash or other.
- The company's beginning and term date.
- Entity and the minimal capital of the company if it had a changeable capital⁶¹.

Moreover, the commercial register should also include:

- Any modification or change in the data to be registered by virtue of art 26 of the Lebanese commercial law.
- Each of the company's managers, board members and appointed managers should register their names, last names, place of birth and nationality.

⁵⁷ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.157

⁵⁸ ibid p.159

⁵⁹ ibid

⁶⁰ <https://www.justice.gov.lb/index.php/department-details/4/1>

⁶¹ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.157

- The invested patent certificates
- The industrial and commercial stamps used by the company should be stated.
- The decisions or rulings about the dissolution or annulment of the company and the announcing of bankruptcy of the company or the certification of the statutory reconciliation and the related decisions should be mentioned⁶².

However, it is important to mention that there is nothing that shows how the authorities, in case they needed to inspect, may verify that the partners and shareholders are the beneficial owners of the company and how they can consequently verify such information given the fact that the commercial register is not centralized in Lebanon⁶³.

Score 0

4.7. What information on beneficial ownership is made available to the public?

No information is published, or accessible information is insufficient to identify direct or beneficial owners.

Score 0

4.8. Does the law require legal entities to update information on beneficial ownership, shareholders, and directors provided in the company registry?

The Code of Commerce requires to update the information mentioned on the register but since information on the beneficial owner is not mentioned on the register therefore, no update can be done. Additionally, there is no verification that the competent authorities can obtain up-to-date information on the beneficiaries⁶⁴.

Score 0

4.9. Is there a registry which collects information on trusts?

There is no registry for trusts in Lebanon however the Lebanese legislator created since 1996, a legal arrangement called the fiduciary contracts by virtue of law number 520 dated 6/6/1996 concerning the development of the fiscal market and fiduciary contracts. These contracts are contracts by which a legal or natural person, called the originator gives to a person called the trustee the right to manage and dispose, for a fixed period of time, of rights or movable assets called the fiduciary obligation⁶⁵.

N/A

4.10. What is the country's score in the open company data index produced by the open corporates?

25 out of 100⁶⁶.

4.11. How strong is the level of transparency of the company registry in practice?

a) Is the registry accessible online? Is it searchable by various relevant parameters (such as addresses of registration, company name, company ID and by the names of directors and owners)?

Yes, the commercial registry is accessible online and it is searchable by registration number and company name with the names of the directors and shareholders, noting that they cannot be always found⁶⁷.

⁶² ibid

⁶³ ibid

⁶⁴ ibid p.140

⁶⁵ ibid p.159

⁶⁶ <http://registries.opencorporates.com>

⁶⁷ <http://cr.justice.gov.lb>

b) Is access free? If not, how much do you have to pay for search and receive the ownership information of one company?

The access is free.

c) Are annual accounts and other filings of companies accessible to the public? No

d) Is the registration required for the entity to be legally valid and/or allowed to operate in the country?

Yes

4.12. Have there been any developments in the past two years that indicate an improvement or deterioration of the transparency of corporations and other legal entities?

No

5. Recovery of Stolen Assets

5.1. Does the country have a specific asset recovery policy?

A clear policy to recover assets is still non-existent in Lebanon. However, some norms are in place to be able to get to this end. A foreign state can file a request for assistance through its submission to the Ministry of Justice which refers to the Public Prosecution Authority that decides to send the request to the competent authority or not. Upon receiving the response, the Public Prosecution sends the request back to the Ministry of Justice. The latter, communicates the request to the demanding state through diplomatic channels. Foreign countries are allowed to ask for assistance from the Lebanese authorities to return the assets acquired through the commission of acts of corruption in 8 different cases and they can be listed as follows:

- 1- The request for information related to criminal money and property and proceeds and regarding bank accounts.
- 2- The request for assistance in investigative proceeds.
- 3- Request for the issuance of a resolution to freeze bank accounts.
- 4- Request to seize funds.
- 5- Request to execute a decision to freeze or seize funds issued by a court or a competent authority in the foreign country requesting the assistance.
- 6- Request for the issuance of a decision to confiscate funds based on the request of a competent authority in the country requesting the assistance.
- 7- Request to perform a confiscation order issued by a court or a competent authority in the foreign country requesting the assistance.
- 8- Request for the recovery of assets acquired through the commission of acts of corruption⁶⁸.

Score 0

5.2. Has the country established a wide range of asset recovery mechanisms including, a) measures that allow for the seizure and confiscation of proceeds from money laundering without requiring criminal conviction (non-conviction based confiscation), b) a policy that requires an offender to demonstrate that the assets were required lawfully and c) the recognition/enforceability of foreign non-conviction based confiscation/forfeiture orders?

There are no clear arrangements to coordinate the seizure and confiscation procedures between Lebanon and other countries⁶⁹ the authorities cannot practically prove that it is necessary for the conviction to exist in the crime of money laundering in order to prove that the funds are illicit.

⁶⁸ http://www.unodc.org/documents/treaties/UNCAC/Asset_Recovery/NV_CU_2014_192/Lebanon.pdf

⁶⁹ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.171 parag. 679

The assistance is acceptable even if there is no conviction and the request is answered regardless of the investigation stage of the case requiring assistance⁷⁰. In law No.318 there's no text that requires convicting a certain person for a the crime of money laundering as listed in article 1, it is enough to prove that the assets are the result of an anti-money laundering crime to start the mutual legal assistance; such concept cannot be deduced from any other text. It is worth mentioning that law enforcement agencies stated the general rules that are applicable in this regard without stipulating the proof of the illicit assets as a condition; whereby and in order to activate the public prosecution case in ML, no final conclusive judgement of prosecution in the predicate offence shall be mandatory⁷¹.

Score 0

5.3. Has the country created a specialized asset recovery team or unit?

On 15 November 2013, with the decision number 1/119, the minister of justice formed a group responsible for developing a guide for recovering assets resulting from corrupt activities. This body is not operationally independent under the law⁷². This unit was never created and no work has been done.

Score 0

5.4. Is there evidence of a strong political commitment to promoting asset recovery?

In October 2017, M.P. Sami Gemayel submitted a draft law aiming to establishing an independent asset recovery committee, promoting the recovery of looted funds⁷³, tracking and detecting looted public assets domestically as well as abroad in addition to retrieving them to the public treasury. The newly established party "*The 7 party*" advocated for the adoption of this draft law which is yet to be passed by the parliament. The former Minister of Justice, Ashraf Rifi, participated in the Arab Asset Recovery Forum in 2015 as the representative of Lebanon and the chair of the Anti-Corruption and Integrity Network in the Arab Countries (ACIAC). Lebanon is among the first countries that recovered assets to Iraq and Tunisia⁷⁴.

5.5. Does the country actively participate in international cooperation networks focusing on asset recovery?

The SIC is the Lebanese anti-money laundering watchdog body that is responsible for mitigating the spread and risks of financial crimes and curbing financial flows resulting from organized crime, in addition to combating terrorism financing. The international cooperation seems to be one of the main tools to achieve this end. The SIC is making remarkable efforts to keep the international cooperation on track which can be proved by the number of ML/TF cases that were investigated in the past few years (2017 and before) due to the involvement of international cooperation as well as local interagency coordination which resulted in rewarding outcomes⁷⁵. "The number of cases received in 2017 of ML/TF reached 597 of which 118 were from foreign sources and 479 from local sources. During 2017, 188 spontaneous disclosures were also handled, and risk based AML/CFT onsite compliance examinations covered 28 banks, 18 finance companies, 28 insurance companies, 83 money dealers and a number of other reporting entities"⁷⁶. The number of requests of assistance received is 245⁷⁷. The SIC provided training and technical assistance to several FIUs from the MENA region. The commission actively participates in working groups and projects as well as its previous involvement in the FATF Middle East & Africa Regional Review Group to review the progress reports of jurisdictions brought within the ICGS process also paid off. Such efforts resulted in bringing several

⁷⁰ ibid p.35

⁷¹ ibid p.31 paragraph 121

⁷² <http://www.undp-aciac.org/publications/ac/legalcompendium/Lebanon/MoJ%20Decision%20AR%20Guide.pdf>

⁷³ [استرداد-الاموال-المنهوبة](https://www.samygemayel.com/)

⁷⁴ <http://nna-leb.gov.lb/ar/show-news/194240/nna-leb.gov.lb/nna-leb.gov.lb/es>

⁷⁵ <https://sic.gov.lb/report/SIC%20Annual%20Report%202017%20ENGLISH.pdf> p.25

⁷⁶ Message from the secretary general

⁷⁷ ibid, p.261

FIUs from MENAFATF member countries to full Egmont Group membership and in raising compliance levels to international standards⁷⁸.

5.6. Is there public evidence of any asset recovery cases involving your country in the past two years?

The two cases that went public which involve Lebanon are the case of Zain el Abidin bin Ali, the former Tunisian president, with 28 Million US\$ in recovered assets⁷⁹ and the Moammer Kaddafi's case in which none of the stolen assets were recovered due to the weak national cooperation to follow the money⁸⁰.

a) Is there public evidence of proactive enforcement action? Is there evidence of proactive information exchange concerning proceeds of corruption within relevant stakeholders from other countries?

The International Relations Department at the Directorate General of the International Security Forces in Lebanon has an important role in terms of information exchange and prosecution of globally wanted criminals. It also the coordination and information exchange with all foreign and Arab countries members of the Interpol is done upon the request of the competent public prosecution⁸¹.

b) Has there been adequate transparency and accountability with regard to the confiscation of assets and their return?

The confiscation of assets resulting from crimes includes the movable and immovable funds and the funds related to the crimes. Confiscation of any kind of assets is also considered as a punishment in relation to the law No.318 and the Lebanese penal law. No law explicitly entails the granting of powers to the law enforcement agencies or the FIUs or the other competent authorities to determine and track the assets subject to or potentially subject to confiscation or which are supposed of being proceeds of crimes. There are no statistics available related to confiscation or even regarding the predicate crimes⁸².

Target 16.5: "Substantially reduce corruption and bribery in all their forms."

Indicator 16.5.1: Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months

Indicator 16.5.2: Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months

8. Experience and perceptions of corruption

8.1. ___% of respondents state that they or a member of their household made an unofficial payment or gift when coming into contact with public services over the past 12 months, according to Transparency International's ___ Global Corruption Barometer (or similar national surveys).

30% of respondents in the MENA region (which would be equivalent to 50 million people), state that they paid a bribe in the past year to access basic services (i.e. medicine, education, or water),

⁷⁸ ibid, p.32

⁷⁹ <https://www.turess.com/assabahnews/114672>

⁸⁰ <http://www.eanlibya.com/archives/67800>

⁸¹ <http://www.menafatf.org/sites/default/files/MutualEvaluationReportoftheLebaneseRepublic-English.pdf> p.177 parag 704

⁸² ibid p.38

according to Transparency International's 2016 GCB⁸³. 12% of respondents in Lebanon said that they paid bribes to access public services in the last 12 months⁸⁴.

8.2 ___% of respondents state that corruption or bribery is one of the three most important problems facing this country that the government should address, according to Transparency International's ___ Global Corruption Barometer (or similar national surveys).

61% of respondents in the region believe that the level of corruption has risen, according to TI's Global Corruption Barometer 2016 survey. 92% of the respondents in Lebanon believe that corruption has increased in the past year⁸⁵.

8.3. ___% of respondents state that their government performs "badly" at fighting corruption in government, according to Transparency International's ___ Global Corruption Barometer.

76% of respondents in Lebanon stated that their government is performing "badly" at the fight against corruption, according to TI's 2016 GCB Global results.

8.4. In Transparency International's most recent Corruption Perceptions Index 2016, the country scored ___ points on a scale of 0 (highly corrupt) to 100 (very clean), ranking ___ out of 176 countries.

Lebanon scored 28 of 100 in both 2016 and 2017, with a rank of 136 out of 167 and 143 out of 180 respectively.⁸⁶

8.5. Has corruption experienced by people increased or decreased in recent years?

According to the Global Corruption Barometer, 92% of the respondents in Lebanon think that corruption has increased in the past year⁸⁷.

9. Anti-Corruption framework and institutions

9.1. Are the following offences clearly defined and banned by criminal law?

A) Active bribery of domestic public officials, in line with Art. 15(a) of UNCAC
Article 353 of the Lebanese Criminal Code criminalizes active bribery in conjunction with articles 352 and 352⁸⁸.

Score 1

B) Passive bribery of domestic public officials, in line with Art. 15(b) of UNCAC
Art 351 and 351 of the LPC criminalizes passive bribery⁸⁹.

Score 1

C) Embezzlement, misappropriation or other diversion of property by a public official, in line with Art. 17 of UNCAC

⁸³ <https://www.transparency.org/files/content/feature/2016 MENA GCBInfographics EN.pdf>

⁸⁴ <https://www.transparency.org/news/feature/global corruption barometer citizens voice from around the world>

⁸⁵ <https://www.transparency.org/news/feature/50 million people in the middle east and north africa paid bribes last year>

⁸⁶ <https://www.transparency.org/research/cpi/overview>

⁸⁷

<https://www.transparency.org/news/feature/50 million people in the middle east and north africa paid bribes last year>

⁸⁸ <https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016 03 08 Lebanon Final Country Report.pdf> p.3

⁸⁹ <https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016 03 08 Lebanon Final Country Report.pdf> p.3

Art. 359 to 362 of the LPC and art. 60 of the court of account law in addition to art. 191 of the public account law criminalize embezzlement. Art. 363 and 364 of the LPC regulate the punishment for misappropriation and misuse of public funds⁹⁰.

Score 1

D) **Trading in influence, in line with Art. 18 of UNCAC**

Lebanon does not criminalize trading in influence. However, the passive trading in influence is criminalized in Art. 375 LPC. It is important to mention that the term "Remuneration" includes only monetary advantages and does not cover the indirect commission of the act⁹¹.

Score 0

E) **Abuse of functions, in line with Art. 19 of UNCAC**

Articles 350, 363, 364 and 371 to 377 of the LPC regulate the abuse of functions.

Moreover, articles 357 of the LPC criminalizes cases of nepotism (Public officials would hire a family member)⁹².

Score 1

F) **Illicit Enrichment, in line with Art. 20 of UNCAC**

Illicit enrichment is criminalized according to the law No. 154 of 1999. It requires public officials to disclose their assets.⁹³

Score 1

G) **Bribery in the private sector, in line with Art. 21 of UNCAC**

Bribery in the private sector is criminalized under art. 345 LPC. This article does not cover all the aspect of art 21 of the UNCAC⁹⁴.

Score 0.5

H) **Embezzlement of property in the private sector, in line with Art. 22 of UNCAC**

Embezzlement of property is criminalized under articles 670 to 673 LPC and immovable assets can be covered under article 671 LPC⁹⁵.

Score 1

I) **Laundering the proceeds of crime, in line with Art. 23 of UNCAC**

Laundering the proceeds of crime is defined by articles 1, 2 and 3 of Law No. 318 of 20 April 2001. The provisions of these articles cover a big scope of the requirements of articles 23 1. (a) and (b) of the United Nations Convention Against Corruption (UNCAC). However, the law did not actually take requirements of article 23 2. (a) and (b) into consideration, as the list of predicate offences seems to be narrower in article 1 of the Lebanese law. It does not cover the illicit funds derived from the UNCAC offences, except in cases of embezzlement of public and private funds. Furthermore, participatory acts to money laundering executed outside Lebanon are not addressed in Law No. 318 which falls short of the requirements mentioned in article 23 2. (c) of

⁹⁰https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p. 4.

⁹¹https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.3

⁹²https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.4

⁹³https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.4-8

⁹⁴https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.4

⁹⁵https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.25

the convention. Finally, the law does not have a provision that would preclude a conviction for self-laundering⁹⁶.

Score 0.5

J) **Concealment, in line with Art. 24 of UNCAC**

Article 221 LPC criminalizes concealment while stipulating that anyone who conceals or disposes money "owned by others". However, it fails to criminalize the continued retention of a property, as a result of UNCAC offences⁹⁷.

Score 0.5

K) **Obstruction of justice, in line with Art. 25 of UNCAC**

Obstruction of justice is criminalized under article 418 of the Lebanese Penal Code: "A person who is found in a place where a judicial investigation is being carried out and the order of the judge directing the hearing is violated is suspended by the judge and sentenced to twenty-four hours of detention, as well as the heavier penalties imposed by the competent court when necessary." Article 419 in the same vein stipulates that "Whoever entreats a judge in a writing that was or is in the interest of one of the disputants or against him is fined from twenty thousand to one hundred thousand Lira." In relation to article 25 (a), authorities referred to articles 407 and 408 LPC, which punish false testimony in criminal procedures and before military and judiciary authorities, article 573 LPC criminalizes threats with the use of force and article 578 LPC establishes as a criminal offence inciting someone to give false testimony. In relation to article 25 (b), authorities referred to article 379 LPC and Article 381 LPC.

Score 0.5

9.2. * Please provide case statistics for each of those offences, including, if available, the number of trials in each of the past two years (ongoing and finalized), the number of convictions, the number of settlements, the number of acquittals and the number of cases currently pending.

The online database does not exist we succeeded in finding relevant information included in the UNCAC review report. For more information, find appendix below:

9.3. * Anti-Corruption Agency

Does not exist in Lebanon

9.4. Supreme Audit Institution

a) To what extent is there formal operational independence of the audit institution, and what evidence is there that, in practice, it can perform its work without external interference?

The Lebanese Constitution in its article 87 established the Audit Court in Lebanon which was formed by virtue of article 223 of the Public Accounting Law of 1951. The Audit Court is responsible for controlling public and treasury funds. It operates under the authority of the Prime Minister. The Audit Court benefits from a high level of independence and immunity which, theoretically, protects it from political pressures and interferences⁹⁸. Practically, and despite the reasonable degree of independence and immunity provided to the Audit Court by the laws and regulations, it witnessed several cases where it has been pressured by political leaders. The Audit Court cannot appoint its own staff which hinders its ability to develop its human resources. Therefore, its autonomy is not completely guaranteed. Furthermore, the president of the Audit Court is also appointed by the Prime Minister. The transfers and the dismissals of the president, the judges and the Attorney General of the Audit Court are

⁹⁶https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.4

⁹⁷https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.4

⁹⁸<http://almashriq.hiof.no/ddc/projects/pspa/PSAccount/PSAccount-1.html>

considered to be difficult: Transfers and dismissals are subject to trial and conviction by a special disciplinary council for judges composed of top judges⁹⁹. The appointment of the president of the Audit Court is part of the confessional division of senior political positions and is allocated to one of the major confessions in Lebanon. This needs a consensus among the influential leaders of the three communities. It happened that in many occasions, the cabinet approved certain public works contracts without taking the approval of the court. This shows that the independence of the Audit Court does not depend only on the laws and regulations however, it depends heavily on the willingness of the political leaders to recognize its independence and be able to provide it with the support needed.

b) To what extent does it have adequate resources and capacity to achieve its goals in practice?

The Audit Court experiences many drawbacks and obstacles, including a lack of staff and insufficient budget¹⁰⁰. In 2011, the Lebanese government and the World Bank launched a joint project to improve and strengthen the Audit Court. Information exchange between Tunisia and Lebanon, since they both share similar development challenges and legal environments, was the base of this agreement. The reason for taking this step were poor governance rules, persistent personnel shortages and frequent management changes that the Audit Court in Lebanon was facing. As a result of this exchange, a relationship called Foundation for Improving Supreme Audit Institutions (SAIs) across the Middle East and North Africa (MENA)¹⁰¹ was formed.

c) To what extent are there mechanisms in place to ensure the integrity of the audit institution, and to what extent is its integrity ensured in practice?

The Court of Audit does not have a specific code of conduct and ethics¹⁰². However, an oath replaces the code of conduct and ethics, which seeks to promote integrity within the Audit Court Institution. The judges at the Audit Court are covered by the Lebanese judges' by-laws, which ban them from engaging in private business activities during their tenure, except teaching at universities for a limited number of hours per month. Avoiding conflict of interest is also addressed by the civil service by-laws. The Audit Court employees should not undertake another paid job or serve on the board of business corporations and have financial interest in a private business. Additionally, articles 351 and 352 of the Lebanese Penal Code Law criminalizes the acceptance of gifts because it is considered as a betrayal of national interests. They are penalized from three months to three years in prison or a fine up to at least double the value of the gift¹⁰³.

d) To what extent does the “audit institution” provide effective audits of public expenditure? Are its reports, findings, and recommendations available to the public?

The Audit Court scored 25 on the Global Integrity report, which means that it rarely produces reports and makes them available to the public. However, the reports of the court of Audit are published with a long delay and are thus often outdated when they are published and if these reports are found available they can be insubstantial or sometimes delayed and incomplete. The citizens can access the reports published by the Audit Court just by referring to the Access to Information (ATI) law.

9.5. Judiciary

a) To what extent the judiciary independent by law, and to what extent does it operate without interference from the government or other actors?

⁹⁹ National Integrity System Study, 2011, p.63-64

¹⁰⁰ National Integrity System Study, p.64

¹⁰¹ <https://www.knowledgesharingfordev.org/story/strengthening-courts-accounts-lebanon>

¹⁰² <https://www.globalintegrity.org/research/reports/global-integrity-report/global-integrity-report-2009/gir-scorecard-2009-lebanon/>

¹⁰³ https://www.unodc.org/cld/document/lbn/1943/lebanon_penal_code.html

The Judiciary's independence is guaranteed by the Lebanese constitution in both its preamble and in the second paragraph of article 66. It is also guaranteed by many different laws such as law of judicial courts, in article 44 that mentions that judges are independent, and also the law on the State Council in article 19 states that the Council's Office should ensure the independence of the judicial courts. Additionally, article 419 of the Lebanese Penal Code states that soliciting judges verbally or in writing in favor of one of the litigations should be penalized by paying a fine. Besides the national laws supporting this principle, it is important to mention the international conventions adopting the independence of the judiciary since these conventions are legally binding and they prevail national laws. The Universal Declaration of Human Rights and the International Convention of Civil and Political Rights and namely in article 10 of the Declaration and article 14 of the Convention highlight the importance of conducting a fair trial before an independent court. The essential principles on the independence of the judiciary of the United Nations Conference held in Milan in 1985 are adopted by Lebanon. In the same vein, a partnership agreement between Lebanon and the European Union (EU) was adopted by the Lebanese law number 474 of 2002.

Practically, the judiciary is perceived as a public institution that falls under the executive power, which means that the principle of independence can be violated. The media has covered cases of interference by the executive and many judges have resigned as a sign of objection against undue interference¹⁰⁴.

It is important to mention that this intervention appears to be going way too far in the sense that some judges get professionally sanctioned for delivering certain verdicts and refusing political influence over the judiciary. For instance, a judge was transferred and another one was appointed as an urgent matter judge because they refused the intervention of politicians¹⁰⁵. Having said that, the Judiciary in Lebanon cannot be considered as completely independent. The court processes and decisions are stigmatized by corruption and undue influence from political parties. The political elite also exercise significant influence over the judicial appointments¹⁰⁶.

b) To what extent are there laws seeking to ensure appropriate tenure policies, salaries and working conditions of the judiciary, and does it have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

There are no clear laws that ensure the principle of security of tenure of judges. While article 20 of the Lebanese Constitution protects the independence of the judiciary, the principle of the security of tenure of judges is not clearly addressed.

This principle does not provide full protection to the judges against arbitrary decisions that could be taken in their regards. In Art. 44 of the law on the judicial system the independence of the judges is addressed: once they are in office, they can only be transferred or removed in accordance to the laws. However, a contradiction appears in the content of art. 95 of the same law undermines the principle of security of tenure of judges. This article grants the HJC a prerogative to remove a judge from his office without resorting to any disciplinary proceedings and judges subsequently cannot appeal such decisions. The lack of protection of judges against these arbitrary decisions pose serious threats to their independence and day-to-day work¹⁰⁷.

The remuneration of judges is paid on a monthly basis plus a quarterly allowance paid by the Judges Solidarity Fund¹⁰⁸.

The remuneration of judges has been amended four times (1993, 1998, 2011 and 2018) in the past. The Payroll policies has always been subject to criticism and tension in Lebanon. Law No.

¹⁰⁴ <https://freedomhouse.org/report/freedom-world/2018/lebanon>

¹⁰⁵ <https://freedomhouse.org/report/freedom-world/2018/lebanon>

¹⁰⁶ <https://freedomhouse.org/report/freedom-world/2018/lebanon>

¹⁰⁷ http://www.constitutionnet.org/sites/default/files/the_independence_and_impartiality_of_the_judiciary_in_lebanon.pdf

¹⁰⁸ http://www.constitutionnet.org/sites/default/files/the_independence_and_impartiality_of_the_judiciary_in_lebanon.pdf

284 on the payroll of judges of 1993 has increased the salaries of the judges with a limited percentage of 1.67% for the first rank positions. A special mutual fund for judges was established as a mean for extra financial support (the government's financial contribution in this regard has increased from one billion Lebanese Pounds per annum to four billion LBP.). In 1997, 300 judges signed a petition where all their requests were mentioned and clarified that the raise in salaries they received in 1993 does not serve in fulfilling their living expenses anymore. It was argued that the payroll was slightly raised after the movement done by the judges however, the payroll did not actually increase except until 2011. Again in 2011, a remarkable number of judges resigned and requested career breaks to seek better opportunities with better remuneration in the countries of the Gulf. This has brought fear into the High Judicial Council. Therefore, the payroll series law No. 173 dated 2011 was passed. Another problem arose in 2017: the salaries of the first ranking public officials became higher than the judges from the same level. This incident led to the urge inside the judiciary to raise the judges' salaries due to the fact that the judiciary is a power and it should not be treated like any other public administration¹⁰⁹.

The budget of the Ministry of Justice accounts for 0.7% to 0.8% of the national budget. It is to note that the budget of the judiciary constitutes a part of the budget of the Ministry of Justice.

The Institute of the Judicial Studies lacks material, logistics, financing as well as human resources. The number of judges is not always enough to deliver judgments in general and particularly pending cases which leads to the slow and inefficient judicial process¹¹⁰.

c) To what extent does the public have access to judicial information and activities in practice?

According to the access to information law every person natural or legal has the right to access and view information and documents held by judicial and arbitration authorities and councils including judicial, administrative and religious courts. Additionally, the law refers to the documents that cannot be accessed which include facts of penal investigations before they are read in a public hearing confidential trials and those related to the juveniles and personal status. In practice, court decisions are not published on the website of the ministry of justice and judicial courts.

d) To what extent is the integrity of members of the judiciary ensured in practice? To what extent is the judiciary committed to fighting corruption through prosecution and other activities?

The integrity of the members of the judiciary is contested in one way or another in Lebanon. Many violations of the principles of equality, impartiality, independence and transparency of the judges and the whole judicial body are being committed.

The anti-corruption bodies in Lebanon are, in principle, the General Prosecution and the Central Inspection Body. The disciplinary bodies taking charge over civil servants are the Judiciary Inspection for Judges and the Court of Account. As an example, the Minister of Finance, Ali Hassan Khalil, referred public officials to the General public prosecutor¹¹¹.

9.6. Law enforcement agencies

a) To what extent are law enforcement agencies independent by law, and to what extent are they independent in practice?

Article 65 of the Lebanese Constitution stipulates that the security forces are submitted to the executive authority¹¹². The Internal Security Forces (ISF)¹¹³ and the General Security are the two

¹⁰⁹ <http://www.legal-agenda.com/uploads/20%القضاء%20وانتبه.pdf>

¹¹⁰ <http://www.legal-agenda.com/uploads/20%القضاء%20وانتبه.pdf>

¹¹¹ http://finance.gov.lb/en-us/Minister_News/Minister%20News/English/2018/Minister%20Khalil%20refers%20cases%20to%20the%20Public%20Prosecutor.pdf

¹¹² <http://www.wipo.int/edocs/lexdocs/laws/en/lb/lb018en.pdf>

¹¹³ <http://www.legallaw.ul.edu.lb/LawArticles.aspx?LawTreeSectionID=272518&lawId=244510&language=ar> (art 2)

law enforcement agencies in Lebanon. They both fall under the authority of the Ministry of Interior and Municipalities (MoI). On 27 August 1945, the Ministry of Interior and Municipalities issued the decree number 3845 that formed the administration of the General Security based in Beirut, and which is related to the Minister of Interior and Municipalities¹¹⁴. Article 7 of the law No. 17/90 stipulates that the organization of the Internal Security Forces is regulated by decrees¹¹⁵. The sectarian system is embedded in all sectors in the country and can be easily noticed in the policing force in Lebanon. The political parties and government are abusing the integrity of this sector through strengthening the presence of particular communal group. The confessional system presents a genuine threat to the Lebanese law enforcement agencies and it affects its independence hence the problem of conflict of interests that can also arise.

b) To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

The total budget of the Ministry of Interior and Municipalities (MoI) equals 6% of the national budget¹¹⁶.

Internal Security Forces: Its budget is more than 1062 Billion LBP, equaling 75% of the total budget of the MoI, most of it goes to salaries and wages.

General Security: its budget is around 265 Billion LBP, equaling 18% of the total budget of the MoI.

The term “adequacy” is vague and relative. In case of Lebanon, the general aspect of the fiscal situation is constrained. Therefore, the financial support is considered as genuine need in every sector operating on the Lebanese territory. It seems that the financing of the law enforcement agencies is not quite sufficient for it to effectively operate and fulfil their duties in practice which explains Lebanon seeking for foreign aid and assistance¹¹⁷.

c) To what extent do law enforcement agencies have to report and be answerable for their actions in practice? To what extent is the integrity of members of law enforcement agencies ensured?

According to the law number 17/90 stipulates that the General Director of the Internal Security Forces shall be subject to the authority of the Minister of interior and the latter shall:

- 1- Review the duties of the Directorate General and oversee all the elements of the Internal Security Forces and monitor and coordinate their work.
- 2- Provide the suggestions aiming to define the police staffing and take all the necessary measures to fill the staff positions in light of the dedicated budget.
- 3- Issue instructions in light with the limits of this law and in the other laws and regulations in force, in all areas where unified principles should be drawn up or common rules of action shall be established or coordinated by the various elements of the internal security forces.
- 4- Ensure the necessary liaison with the general directors and other authorities in the various ministries and with the army leadership.
- 5 - In general, to ensure the implementation of all measures belonging to him under the provisions of this law and other laws and regulations in force¹¹⁸.

¹¹⁴ <http://www.general-security.gov.lb/ar/posts/2>

¹¹⁵ <http://www.legallaw.ul.edu.lb/LawArticles.aspx?LawTreeSectionID=272519&lawId=244510&language=ar>

¹¹⁶ <http://www.finance.gov.lb/en-us/Finance/BI/ABDP/Documents/202017%20مزانة%20العام%20قانون.pdf>

¹¹⁷ The visit of the Minister of Interior, Nouhad el Mashnouk to England in 2016. The aim of the visit was to strengthen the relationship between England and Lebanon concerning the security issue and the fight against terrorism. England has granted Minister Mashnouk its approval on offering 13 million Pounds Sterling to the Lebanese internal security forces in order to build professional police forces, construct more police stations, support the internal forces training program among others¹¹⁷.

¹¹⁸ <http://www.legallaw.ul.edu.lb/LawArticles.aspx?LawTreeSectionID=272519&lawId=244510&language=ar>

Additionally, the official website of the general director of the General Security identifies that based on the decree 139/1959 also functions under the Ministry of Interior. The General Security and the ISF updated the information about the agency's achievements in terms of the cases solved, prosecuted and remanded to the Lebanese Judiciary.

d) To what extent do law enforcement agencies detect and investigate corruption cases in the country?

The law enforcement agencies are not fully independent and in practice, it needs a political decision to investigate any corruption case in the country.

10. Private Sector Corruption

10.1. Is it a criminal offence under the country's laws to bribe a foreign public official?

Lebanon does not criminalize bribery of foreign public officials and officials of public international organizations¹¹⁹.

Score 0

10.2. Does the country's legal framework prohibit collusion?

Lebanon does not have a competition law in action¹²⁰. However, Article 363 of Legislative Decree No. 112/83 stipulates that contractors who collude on bids for concessions and public tenders and thus inflict damage to the official contracting party shall be punishable by imprisonment for a term of between three months to three years and by a fine of 200,000 to a million Lebanese Pounds¹²¹. As for the private sector this behavior does not exist.

Score 0.5

10.3. Is the ban on foreign bribery enforced?

Lebanon does not criminalize bribery of foreign public officials.

10.4. Are anti-collusion provisions effectively enforced?

Lebanon does not have a particular body dedicated to investigate and sanction companies involved in collusive practices. However, in accordance to a research paper done by the Institute of finance, some quantitative data was mentioned regarding the percentage of respondents that reported being pressured to deal with specific suppliers (33%) and the percentage of respondents that reported that a procurement contract could be awarded to a supplier other than the one selected by the evaluation committee (12%)¹²².

10.5. Are there specific rules or practices related to the transparency of corporations that result in high corruption risks?

The Ministry of Finance (MoF) of Lebanon is actively adopting the International Accounting Standards, in cooperation with the Lebanese Association of Certified Public Accountants (LACPA). An elaboration of an action plan to implement membership obligations will be elaborated by the LACPA to include the activities planned for 2017-2018 as a mean to enhance the implementation of the International Accounting Standards¹²³. There are several codes of ethics and corporate governance, including, the Group of Lebanese Business Owners' "Code of Business Ethics" and the Lebanese Code of Corporate Governance written by LTA. It is important to mention that these

¹¹⁹https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.3

¹²⁰<https://www.export.gov/article?id=Lebanon-Transparency-of-the-Regulatory-System>

¹²¹https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf p.26

¹²²<http://www.institutdesfinances.gov.lb/Library/Files/Public%20Procurement/Procurement%20Leb%20for%20web.pdf>

¹²³<https://www.ifac.org/about-ifac/membership/members/lebanese-association-certified-public-accountants>

codes are not mandatory and it is up to the entities to abide by them or not, meaning that they are not enforceable.

11. Lobbying transparency

11.1. Is there a law or policy that sets a framework for lobbyists and lobbying activities?

No, there is no legislation or policy regarding lobbying in Lebanon.

Score 0

11.2. Is the definition of (i) lobbyists, (ii) lobbying targets, and (iii) lobbying activities clear and unambiguous? Who is covered by the definition (consultant lobbyists/in-house lobbyists/anybody engaging in lobbying activities)?

There are no generally applied definitions of either of the proposed concepts in Lebanon.

N/A

11.3. Is there a mandatory lobbying register? Do disclosure requirements provide sufficient and relevant information on key aspects of lobbying and lobbyists, such as its objective, beneficiaries, funding sources, and targets?

Lobbying is not formally or legally regulated in Lebanon. As such, there is no (information available on) a lobbying register or information regarding key aspects of lobbying.

N/A

11.4. Are there rules and guidelines which set standards for expected behaviour for public officials and lobbyists, for example to avoid misuse of confidential information?

Yes, there is a code of conduct but only for public officials which entered into force in December 2001¹²⁴.

11.5. Are procedures for securing compliance framed in a coherent spectrum of strategies and mechanisms, including monitoring and enforcement?

No data found

11.6. Are there documented cases of lobbying misconduct that have been investigated in the past two years? Are there documented cases of sanctions being imposed for non-compliance?

No data found

11.7. Have there been noteworthy efforts to promote transparency and integrity related to lobbying in the past two years? Have there been relevant changes to the framework or its implementation?

No data found

12. Party and election campaign finance transparency

12.1. Is there a legal framework regulating the financing of political parties and the finances of candidates running for elected office?

In Lebanon, there's a need to differentiate between the financing of political parties and the financing of candidates during the parliamentary elections.

The political parties are subject to Ottoman Law of 1909 on Associations. The law does not include regulations on financing political parties, it is liberal law. Regulation on the financing of electoral

¹²⁴<http://www.omsar.gov.lb/SiteCollectionDocuments/www.omsar.gov.lb/PDF%20Files/Miscellaneous%20Publications/Employee%20Guide%20-%20Arabic.pdf>

candidates is found in Chapter 5 of the electoral law (starting from art. 56 EL 2017). This chapter of the law regards financing and expenditures of candidates on any of the electoral lists, for the duration of the electoral campaign (art. 56 EL 2017).

Score 0.5

12.2 Are political parties and individual candidates running for elected office required to disclose financial statements for their campaigns detailing itemized income and expenditure, as well as individual donors to their campaign finances?

Yes, article 19 sub 6 of the EL 2017 stipulates that the Electoral Supervisory Authority holds responsibility for monitoring the timely receiving of financial statements of campaigns within one month from the date of the elections.

Article 56 of the same law in Lebanon mentions the allowed sources of income for candidates during campaigns. These sources include, personal funds (including those of their families) and the contributions by Lebanese natural or legal persons. Foreign financial contributions as well as funds from the Lebanese government are prohibited; in-kind contributions (good and services) are also perceived as contributions except for the services provided by volunteers. Candidates are prohibited to receive more funds than they spend, but nothing seems to stop them from doing so, aiming for potential profit to be made. Therefore, according to this new law, they are required to submit monthly financial statements during the electoral periods and the final report one month after the elections¹²⁵.

Article 58 of the Electoral law lists allowed expenses, (the list is not exclusive), among them are the rental of electoral offices and all related charges, the organization of rallies, events, public meetings and election-related banquets, design, printing, distribution and posting of pictures, posters and billboards. Art. 59 and 62¹²⁶ of the Electoral law ban some types of expenditures, such as giving money to charities, social and cultural organizations and sports clubs etc. during the campaigning period¹²⁷.

The candidates and lists running for office need to report on both income (whether in cash or in kind) and expenditures after the elections. No report is required to be submitted before the elections. Additionally, art. 59 sub 5 of the EL 2017 prescribes that each candidate and list must appoint an auditor who keeps tabs on the legality of all the received funds and on the candidate's or list's bank account, opened at a Lebanese bank especially with the purpose of receiving and hosting electoral funds (art. 59 EL 2017). It is the auditor's responsibility to regularly (monthly) submits to the Committee a report on the financial status of the campaign (art. 63 EL 2017)¹²⁸. It is also important to mention that the reports are not made to be public¹²⁹.

Although the law refers to lifting the banking secrecy of the electoral account, the Electoral Supervisory Authority identifies through various statements that it is the only body that can review those statements and not the citizens (Art.50 sub section 2).

Score 0

12.3 Are political parties and, if applicable, individual candidates running for elected office required to disclose annual accounts with itemized income and expenditure and individual donors?

No

Score 0

12.4 Are parties' (and, if applicable, candidates') electoral campaign expenditures subject to independent scrutiny?

¹²⁵ [https://www.ifes.org/sites/default/files/political finance in lebanon 0.pdf](https://www.ifes.org/sites/default/files/political%20finance%20in%20lebanon%200.pdf)

¹²⁶ <http://www.dailystar.com.lb/News/Lebanon-News/2017/Jul-07/411988-lebanese-electoral-law-2017-full-text-in-english.ashx>

¹²⁷ [https://www.ifes.org/sites/default/files/political finance in lebanon 0.pdf](https://www.ifes.org/sites/default/files/political%20finance%20in%20lebanon%200.pdf)

¹²⁸ <https://www.ministryinfo.gov.lb/en/22598>

¹²⁹ [https://www.ifes.org/sites/default/files/political finance in lebanon 0.pdf](https://www.ifes.org/sites/default/files/political%20finance%20in%20lebanon%200.pdf)

The EL 2017 stipulates the establishment of the Electoral Supervisory Authority (art. 9 sub 1 EL 2017), consisting of 11 members.

The Electoral Supervisory Authority is tasked with – among others – the monitoring and controlling of electoral expenditure (see art. 19 sub 6 and 8 EL 2017). While no public statements have been made by the ESC regarding financial statements of parties and/or candidates, the ESC had already made public before the elections to seek contact with auditors to follow up on the electoral spending¹³⁰.

Score: 0.5

12.5 Are the annual accounts of political parties (and, if applicable, of candidates) subject to independent scrutiny?

On yearly basis, political parties submit to the Minister of Interior and Municipality a balance sheet of their budget. This document is not monitored or published.

Score: 0

12.6 What is the score in the Money Politics and Transparency assessment produced by Global Integrity?

Lebanon received a composite score of 21 (out of 100) – the legal framework was scored with 30, practice was scored with 18¹³¹.

12.7 Have political parties and/or candidates been sanctioned for violating political finance rules or non-compliance with disclosure requirements in the past two years, according to publicly available evidence?

During Lebanon's former elections in 2009, 100 candidates have not submitted their financial reports after the elections and they therefore, violated art. 61 of the previous electoral law. Back then, The Supervisory Commission on Electoral Campaign submitted the names of the non-complying candidates to the Public Prosecutor's Office and no sanctions were subsequently applied against such evident violations of the law¹³².

12.8 Have political parties and/or candidates been sanctioned for violating political finance rules or non-compliance with disclosure requirements in the past two years, according to publicly available evidence?

No

Target 16.6: “Develop effective, accountable and transparent institutions at all levels”

Indicator 16.6.1: *Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar)*

Indicator 16.6.2: *Proportion of the population satisfied with their last experience of public services*

¹³⁰ Al Awsat 24 April 2018, 'Lebanon: Elections Watchdog Will Audit Candidates' Accounts'. Accessed on 09 May 2018 via: <https://aawsat.com/english/home/article/1247711/lebanon-elections-watchdog-will-audit-candidates%E2%80%99-accounts>

¹³¹ <https://data.moneypoliticstransparency.org/>

¹³² [https://www.ifes.org/sites/default/files/political finance in lebanon 0.pdf](https://www.ifes.org/sites/default/files/political%20finance%20in%20lebanon%20.0.pdf) p.12

13 Transparency and integrity in public administration

13.1 Is there a law, regulation or Code of Conduct in place, covering public officials, employees and representatives of the national government, that adequately addresses the following issues:

- a. integrity, fairness, and impartiality;
- b. gifts, benefits, and hospitality; and
- c. Conflicts of interest?

There are both a legislative decree and a code of conduct¹³³ addressing the above-mentioned issues. The Legislative Decree No. 112 issued on 12/6/1959 on the organization of Public Officials' duties includes rules and regulations related to the definition and identification of public officials, namely the permanent and the temporary ones, the appointment of public officials, conditions of their enrolment in accordance to their level, the officials' rights and obligations, among others. Article 14 of this decree and in its 3rd sub-section stipulates that the official has to personally take responsibility of the orders he/she receives from its superior. Additionally, in its 5th sub-section, for instance, shows that in case the public official belongs to a political party or to political and sectarian groups or to councils of political nature, he/she has to give it up for the sake of the position. Article 15 imposes the prohibited acts to be done during public office. In its 7th sub section it is stated that it's prohibited that officials seek or accept an offer of direct or indirect gifts, gratuities or grants of any kind. Sub-section 8 also stipulates that it is prohibited on public officials to disclose any official information he has seen during the course of his duties. There is nothing in this decree that mentions conflicts of interest and as mentioned earlier Lebanon does not have a law that prevents conflicts of interests in public office in general and a law that controls it¹³⁴.

Score 0.25

13.2. Is there a law or clear policy in place to address the 'revolving door' – the movement of individuals between public office and private sector, while working on the same sector or issue, which may result in conflicts of interest and in former public officials misusing the information and power they hold to benefit private interests?

There is no law that clearly address the concept of "revolving door" as such, but article 100 of the Legislative decree No. 112 issued on 12/6/1959 on the "Organization of Public Officials Duties" stipulates that "The public official is prohibited, for five years following the end of his public duties, from working in any company that was subject to his oversight in the public department he used to be employed at, or that had regularly supplied products to such department, or had provided works to such department during his employment. The public official is also prohibited, during the same period, from having any interest in such company, represent it or defend it before courts in litigation filed by such company against public departments and establishments".

Through application of article 149 of the Lebanese National Defense Law, Lebanese militaries are also subject to the same restrictions in the above-mentioned article¹³⁵.

Score 1

13.3. Does the law or policy that addresses the 'revolving door' cover all relevant public-sector decision-makers?

Article 100 of the Legislative Decree No. 112 issued on 12/6/1959 on the "Organization of Public Officials Duties", provides a comprehensive approach of relevant public-sector decision-makers.

Score 1

¹³³<http://www.omsar.gov.lb/SiteCollectionDocuments/www.omsar.gov.lb/PDF%20Files/Miscellaneous%20Publications/Employee%20Guide%20-%20Arabic.pdf>

¹³⁴ <http://www.cib.gov.lb/lot/112.htm>

¹³⁵ <http://www.stovall-law.com/images/Revolving%20Door%20Restrictions%20HLS%20rev%202018.pdf> p.4

13.4. Is there a mandatory cooling-off period – a minimum time interval restricting former officials from accepting employment in the private sector that relates to their former position – for members of the government and other relevant high-level decision-makers?

The period is 5 years, with reference to article 100 of the Legislative Decree No. 112 issued on 12/6/1959 on the “Organization of Public Officials Duties”

Score 1

13.5. Is there a single public body or are there designated authorities responsible for providing advice and overseeing ‘revolving door’ regulations?

The Central Inspection Board¹³⁶.

Score 1

13.6. Are there proportionate and dissuasive sanctions for both individuals and companies that do not comply with the law or policy controlling the ‘revolving door’?

No

Score 0

13.7. Are the ‘revolving door’ provisions implemented and enforced in practice? Have there been any developments in the past year that indicate an improvement (or deterioration) in how the ‘revolving door’ and related conflicts of interests are addressed?

No

13.8. Does the legal framework require high-level public officials and senior civil servants to regularly (at least once per year) declare their interests, including any paid or unpaid positions and financial interests in companies and other entities?

According to the Illicit Wealth Law issued in 1999¹³⁷, public officials in Lebanon including the president of the republic, ministers, judges and public officials have to submit a statement of wealth within three months of their appointment and three months after the end of their terms, however, the information is not made available to the public¹³⁸.

Score 0.25

13.9. Do the interest disclosure requirements cover officials of all branches of government – executive, the legislature, the judiciary, and civil service as well as other relevant public bodies?

The illicit enrichment law does not cover the interest disclosure.

Score: 0

13.10. Does the legal framework require high-level public officials and senior civil servants to regularly (at least once per year) declare their income and assets?

The requirements of disclosure of assets is mentioned in Article (4) of the Illicit Enrichment Law in Lebanon, stipulating that wealth is to be declared and the assets of the permit are defined as follows:

High-level official including, judges and every public official of the third category (or equivalent) and above as well as any officer, shall submit at the commencement of the work, as one of the conditions of such commencement, a signed statement indicating the movable and immovable property owned by him/her, his/her spouse and dependent children. Those people shall, within a period of three months from the date of termination of their services, a second statement indicating what they own (movable and immovable assets), and determine the differences between the first and second declarations while stating the reasons¹³⁹.

¹³⁶ <http://www.cib.gov.lb/website.htm>

¹³⁷ <http://www.cib.gov.lb/lot/154.htm>

¹³⁸ <https://www.business-anti-corruption.com/country-profiles/lebanon/>

¹³⁹ <https://www.lebarmy.gov.lb/ar/content/الإثراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

Moreover, the Prime Minister, the Ministers and the MPs may submit a declaration within three months after their appointment or election and another declaration three months after the end of their term of office or the expiration of their term of office¹⁴⁰.

Score 0.25

13.11. Do the income and asset disclosure requirements cover officials of all branches of government -executive, the legislature, the judiciary, and civil service as well as other relevant public bodies?

Judges, Public Officials (3rd level), Prime Minister, Ministers, Member of the parliament, Presidents of municipalities, Members of Municipal Councils, Union of Municipalities, Deputy Governor of the Central Bank, Chairman and members of the Banking Supervision Committee and staff of the Central Bank¹⁴¹.

Score 1

13.12. Does the framework require that information contained in interest declarations and income and asset disclosures be made publicly accessible?

The declarations of income have a confidential nature, and each employee assigned to receive or keep them shall maintain this confidentiality. The offender shall be punished by the penalty provided for in Article 579 of the Penal Code, which shall be one year in prison and a fine not exceeding L.B.P 400,000. The competent judicial authority is entitled to review the declarations in the prosecution¹⁴².

Score 0

13.13. Does the legal framework establish an oversight body that is provided with sufficient political independence and legal powers to scrutinize income and asset disclosures?

No, there are more than one body responsible for the income and assets disclosure which vary depending on the locations and functions of the applicants¹⁴³.

Score 0.25

13.14. Does the law or policy contain dissuasive and proportionate sanctions for failure to comply with interest and income and asset disclosure requirements?

According to the illicit enrichment law, any judge, employee, or member of the board of directors who fails to comply with the disclosure requirement shall be deemed resigned if, within three months from the date of being notified by the head of his administration. Additionally, anyone who submits a false statement is subject to the penalty provided for in article 462 of the Penal Code, namely imprisonment from one month to one year and a fine of at least LBP 100,000¹⁴⁴. Since the Lebanese law does not mention anything about the disclosure of interest then the score would be the following.

Score 0.5

13.15. * Have there been cases in the past two years of sanctions being imposed on elected or high-level public officials or senior civil servants for failing to file declarations of their interest declaration or their assets and income declaration, or for intentionally providing false or incomplete information in their disclosure, according to publicly available evidence?

No

¹⁴⁰ <https://www.lebarmy.gov.lb/ar/content/الاشراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

¹⁴¹ <https://www.lebarmy.gov.lb/ar/content/الاشراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

¹⁴² <https://www.lebarmy.gov.lb/ar/content/الاشراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

¹⁴³ <https://www.lebarmy.gov.lb/ar/content/الاشراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

¹⁴⁴ <https://www.lebarmy.gov.lb/ar/content/الاشراء-غير-المشروع-في-أحكام-القانون-اللبناني/>

13.16. How do you evaluate the effectiveness of the disclosure mechanism for interests, assets and income? Is there a disclosure requirement for gifts and hospitality received by public officials and civil servants (if applicable)? Have there been any developments in the past two years that indicate an improvement or a deterioration of the disclosure mechanism?

The disclosure mechanism is not effective. Public servants do not fear the sanctions since the accountability mechanism is rarely implemented.

13.17. * Does publicly available evidence suggest that sufficient resources are allocated to the implementation of an ethics infrastructure? Have there been other noteworthy changes to public sector ethics framework, based on publicly available evidence?

No evidence

14. Fiscal transparency

14.1. Is there legislation or policy in place requiring a high degree of fiscal transparency?

There are no requirements for a high degree of fiscal transparency. The traditional budget structure currently being implemented in Lebanon (which is based on the presentation of total revenues versus the total expenditures of the ministries) does not allow for fiscal transparency. It differs from the Performance Based Budgeting that has yet to be adopted by the government and the Ministry of Finance. The budget issue in Lebanon is regulated by the Constitution and the Public Accounting Law (PAL). The latter includes details on all budget preparations, execution and procedures, however, it still lacks many provisions related to the content and structure of the annual budget law. Having said that, one can hardly speak of a high degree of fiscal transparency in Lebanon.¹⁴⁵

Score: 0

14.2. What is the country's score and rank in the most recent Open Budget Survey, conducted by the International Budget Partnership (<http://www.internationalbudget.org/open-budget-survey/>)?

Transparency: 3/100

Public participation: 0/100

Budget oversight: 11/100

14.3. Are key budget-related documents published in practice?

The key-budget related documents are the following:

- Pre-budget statements (inexistent, explanation will follow below).
- Executive budget proposals and supporting documents.
- Enacted budget / citizen budget (existent but unpublished)

According to the International Budget Partnership (IBP) Lebanon publishes less than 5 documents among the documents required¹⁴⁶.

¹⁴⁵ <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Lebanon-Report-on-Observance-of-Standards-and-Codes-Fiscal-Transparency-Module-18253> (download full text).

¹⁴⁶ The aforementioned documents need to be enacted with in-year, mid-year, year-end reviews and audit reports (inexistent, explanation will follow).

Lebanon, in the Open Budget Survey (OBS) of 2017 of the International Budget Partnership (IBP) scored: **3/100** on the Transparency (meaning the availability of the budget documents to the public) after scoring 32/100 in 3 years in a row in the past (2008, 2010 and 2012) and dropping distinctively to 2/100 in 2015.

Many recommendations were mentioned by IBP that Lebanon should focus on and prioritize in order to improve budget transparency:

- Lebanon has to publish an executive budget proposal as well as a pre-budget statement online.
- Lebanon has to publish In-Year reports online periodically.
- Lebanon has to produce and publish an Audit Report, a citizen budget and a mid-year review.
- Lebanon has to ensure that the enacted budget is published online.

15. Public Procurement

15.1. Does the law clearly define up to what threshold(s) single-sourced purchases of goods, services and public works are allowed?

According to article 147 of the public accounting law allows for mutual agreements for single-sources purchases of goods with a threshold up to 35 million as a maximum price¹⁴⁷.

Score 1

15.2. What are exceptions in the legal framework for public procurement that allow for single-sourced contracting above these thresholds?

The Public procurement law No. 2866/1959 does not specifically discuss single-source purchases.

Score 0

15.3. Does the legal framework require that information on public procurement above certain thresholds be published?

Article 7 of the Access to information law requires a threshold of 5 million LBP on public procurement. The documents that should be published when exceeding the 5 million LBP are the following the value of the exchange process, means of payment, purpose, beneficiary, the legal basis of such a process (for example tenders, mutual asset, implementation of a court ruling)

Score 0.75

15.4. Are bidders required to disclose their beneficial owners?

The law does not mention anything about this.

Score 0

15.5. Are there legal provisions, regulations or policies in place for bidders to file complaints in case they suspect irregularities at any stage of the procurement process?

According to IBP Lebanon scored **0/100** on the Public Participation (PP) (meaning the degree to which the public is provided the opportunity to participate and engage in the budget cycle by the executive, the legislature and the supreme audit institution). The recommendations by IBP in regard to this issue are the following:

- The members of the public and executive need to exchange opinions on the national budget issue during the formulation and the monitoring and implementation processes.
- “Hold legislative hearings on the formulation of the annual budget, during which members of the public or civil society organizations can testify.
- Develop formal mechanisms for the public to assist the supreme audit institutions in formulating its audit program and to participate in relevant audit investigations”.

According to IBP Lebanon scored **11/100** on the Budget Oversight (meaning the degree to which the legislatures, the supreme audit institutions and independent fiscal entities play a role in the budget process and provide effective oversight in its effective implementation).

The legislative does not formulate or approve the budget cycle however it does provide weak during the planning and implementation stages of the budget cycles (with a score of 13/100). The supreme audit institution provides weak budget oversight on the budget cycle scoring 22/100.

The recommendations provided by IBP for this issue can be listed as follows:

- Prior to the tabling of the Executive’s budget proposal the legislative should hold a debate policy and should also approve the recommendation for the upcoming budget.
- The legislative committee has to examine and published reports on their analyses of the Executive’s Budget Proposal online.
- The legislative committee must examine and publish reports on in-year budget implementation online.
- Grant the supreme audit institution full powers to undertake audits as it sees fit
- An independent fiscal institution has to be set up¹⁴⁶.

Additionally, the Ministry of Finance has a portal where it publishes finance-related documents regarding a myriad of topics (economic data, public debt, budget information, reforms, donor agreements etc.).

<http://www.finance.gov.lb/en-us>

¹⁴⁷ <http://www.cib.gov.lb/lot/14969.htm>

Decree Law No. 10434 dated 14/06/1975 of the State Consultative Council, stipulates that the party harmed can file a complaint and request a formal review before the state consultative council to either demand the nullification of an administrative decision related to a public bid, or to claim certain compensations¹⁴⁸.

15.6. Which information and documents related to public procurement and other relevant government contracts (such as privatizations, licenses etc.) are published proactively and are available in full text? Are any of these documents published online through a central website or database?

Article 5 sub-section 1 of the Public Procurement Law of 1959 stipulates that the annual plan of the procurement administration shall be published in 5 national newspapers. This annual plan gets reviewed and amended by each public institution before the 15th of March. The procurement administration, after receiving the feedback and amendments of the other public institutions, publishes the annual plan a second time before the 15th of April. The annual plan should be executed with all the provisions mentioned in it the way it was published the second time¹⁴⁹. Information on procurement are published on the websites of bodies of the public administrations. The Council for Development and Reconstruction (CDR) publishes reports on projects being implemented and procurements awarded.

15.7. * To what extent does the country use electronic procurement that is open, provides the public with access to procurement information and opportunities to engage in the procurement process?

Some public administrations publish their procurement contracts online whereas other publish them on national journals.

16. Whistle-blowing and reporting mechanisms

N/A in Lebanon

Target 16.10: “Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.”

Indicator 16.10.1: *Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months*

Indicator 16.10.2: *Number of countries that adopt and implement constitutional, statutory and/or policy guarantees for public access to information*

17. Protection of fundamental freedoms

17.1. What is the country's score and rating in Freedom House's Freedom in the World Rating (<https://freedomhouse.org/report-types/freedom-world>)?

Aggregate score: 43/100

¹⁴⁸ Review of the public procurement legal framework in Lebanon.

¹⁴⁹ <http://www.cib.gov.lb/lot/2866.htm>

(0=Least Free, 100=Most Free)

Freedom Rating: 5/7

Political Rights: 6/7

Civil Liberties: 4/7

(1=Most Free, 7=Least Free)¹⁵⁰

17.2. What is the country's rank and score in the most recent World Press Freedom Index, issued by Reporters Without Borders (<https://rsf.org/en/ranking>)?

Rank 2018: 100/180 (1=Most Free, 180= Least Free)

Score 2018: 31.15/100¹⁵¹

17.3. Does the legal framework contain any provisions that threaten or undermine the ability of journalists, bloggers researchers, human rights advocates and other civil society actors to exercise their fundamental rights, to uncover and report on all forms of corruption, and to hold leaders accountable?

The laws currently regulating Lebanese media are the 1962 Press Law and the 1994 Audio-visual Media Law¹⁵². Both of these laws were passed well before the digital revolution and are, as such, outdated. In December 2016, the Lebanese parliamentary committee finalized a major bill with over 120 amendments¹⁵³. This bill is supposed to fill the blanks left by the current legal framework. However, the new bill is yet to be approved by the parliament. Article 13 of the Lebanese Constitution, asserts that 'the freedom of opinion, expression through speech and writing, the freedom of the press, the freedom of assembly and the freedom of association, are all guaranteed within the scope of the law'. The 'scope of the law' includes repressive measures outlined in the country's penal code, military justice code and existing press and audio-visual legislation. Article 384 of the penal code stipulates punishments of up to two years' imprisonment for insulting 'the president, the flag or the national emblem', while Article 317 criminalizes the publication of content that incites 'sectarian or racist strife'.

17.4. Are any policies or practices in place that undermine the ability of journalists, bloggers researchers, human rights advocates and other civil society actors to exercise their fundamental rights, to uncover and report on all forms of corruption, and to hold leaders accountable?

According to the Freedom House Press Report Lebanon 2017, the Lebanese censorship bureau has a far-reaching mandate to censor a variety of media sources (including books, films and music) under the cover of protecting political and religious views or national security¹⁵⁴. There is no clear regulatory framework for the evaluation of said media sources and, thus, the classification process is very opaque. Additionally, news outlets are highly politicized and influenced by both political as well as religious leaders. The news is thus prone to ambiguity.

17.5. Have there been documented cases of killings, kidnappings, enforced disappearances, arbitrary detentions, torture or attacks against journalists, associated media personnel, trade unionists, human rights and civil society advocates or other people who investigated, uncovered and advocated against corruption in the previous two years?

According to the Freedom House Press Reports of Lebanon from 2016 and 2017 (16, 20), as well as the Reporters Without Borders Lebanon (page 19), there were no killings, kidnappings or any serious (physical) attacks, but multiple cases of lawsuits being filed on questionable grounds.

¹⁵⁰ <https://freedomhouse.org/report/freedom-world/2018/lebanon>

¹⁵¹ <https://rsf.org/en/lebanon>

¹⁵² MedMedia 2015 Lebanon Report. Accessed on 15 May 2018 via: http://www.med-media.eu/wp-content/uploads/2015/09/MEDMEDIA_LEBANON.pdf

¹⁵³ The Daily Star 07 December 2016, 'Major Media Law Shakeup After Years'. Accessed on 15 May 2018 via: <http://www.dailystar.com.lb/News/Lebanon-News/2016/Dec-07/384402-major-media-law-shakeup-after-years.ashx>

¹⁵⁴ Freedom House Lebanon Report 2016. Accessed on 15 May 2018 via: <https://freedomhouse.org/report/freedom-press/2016/lebanon>

2016:

- September: "An Al-Akhbar newspaper journalist was summoned to court Monday after Interior Minister Nouhad Machnouk filed a slander and defamation lawsuit against him over a Facebook post"¹⁵⁵.
- November: Hezbollah initiated a defamation suit against news anchor Dima Sadek who works for LBCI, and known for its opposition to the Hezbollah because she had allegedly accused Hezbollah of corruption during an episode of her talk show "Naharkum Saeed" on LBCI, in addition to some Facebook comments¹⁵⁶.

2017:

- Judicial harassment of Marcel Ghanem due to the presenter having guests on his TV show criticizing Lebanese authorities
- February: Attack by mob on Al-Jadeed news station¹⁵⁷.
- June: Lebanese minister prevents three journalists from attending news conference due to accusations on alleged spreading of false rumors¹⁵⁸.
- August: Four Lebanese TV journalists fined for defamation and false news¹⁵⁹.

17.6. Have there been cases of attacks against NGOs, journalists, and others advocating or reporting on corruption adequately investigated and resolved in the past two years? Were perpetrators identified and held accountable?

As described above the attacks on journalists are taking the form on law suits being filed against them or arrests for several days for investigations purposes and being released after that.

17.7. Have there been documented cases of government censorship, including of online communication, or of undue political interference that limits people's ability to inform and express themselves online in the past two years?

According to Freedom House's 2016 Lebanon Report¹⁶⁰, online censorship is rare in Lebanon. Website owners sometimes receive requests to delete content which allegedly is defamatory or illegal, such as when related to gambling or child-pornography. Transparency regarding the classification of content is, however, severely lacking. Self-censorship of online news- and blog sites is significant, as a lot of outlets are owned by prominent (political) figures. Additionally, as promoting or supporting LGBTQI issues is illegal under the Penal Code, (online) content related to this is prone to censorship as well. With the new media law not yet implemented, Lebanon still follows a 1947 law that dictates that all movies in Lebanon should undergo a censorship process by the Directorate of General Security and cannot be publicly shown without their approval¹⁶¹. It is based on this law that Lebanon banned the 2016 movie *Spotlight*¹⁶² from cinemas.

18. Access to information

¹⁵⁵ <http://www.kataeb.org/security-justice/2015/09/21/interior-minister-sues-lebanon-journalist-for-slander>

¹⁵⁶ <http://www.dailystar.com.lb/News/Lebanon-News/2015/Nov-04/321582-hezbollah-drags-famous-tv-anchor-to-court-for-defamation.ashx>

¹⁵⁷ Committee to Protect Journalists, 15 February 2017, 'Mob Attacks Lebanese TV Station'. Accessed on 16 May 2018 via: <https://cpj.org/2017/02/mob-attacks-lebanese-tv-station.php>

¹⁵⁸ Committee to Protect Journalists, 30 June 2017, 'Lebanese Minister Prevents Three Journalists from Attending News Conference'. Accessed on 16 May 2018 via: <https://cpj.org/2017/06/lebanese-minister-prevents-three-journalists-from-.php>

¹⁵⁹ Committee to Protect Journalists, 02 August 2017, 'Four Lebanese TV Journalists Fined for Defamation and False News'. Accessed on 16 May 2018 via: <https://cpj.org/2017/08/four-lebanese-tv-journalists-fined-for-defamation-.php>

¹⁶⁰ Freedom House Lebanon Report 2016. Accessed on 15 May 2018 via: <https://freedomhouse.org/report/freedom-press/2016/lebanon>

¹⁶¹ Blogbaladi 20 February 2016, 'New Proposed Law to Stop Censorship in Lebanon'. Accessed on 16 May 2018 via: <http://blogbaladi.com/new-proposed-law-to-stop-film-censorship-in-lebanon/>

¹⁶² Independent 02 June 2017, 'Wonder Woman and a Dangerous Precedent for Censorship in Lebanon'. Accessed on 16 May 2018 via: <https://www.independent.co.uk/news/world/middle-east/wonder-woman-banned-israel-lebanon-beirut-censorship-accusations-a7770146.html>

18.1. Does the legal framework (including jurisprudence) recognize a fundamental right of access to information?

The Lebanese government passed the access to information law on January 19 2017¹⁶³. It seeks to enhance transparency and strengthen the relationship of trust between the public administration and the Lebanese citizens which also leads to the fight against corruption. Although the Access to information law is not referred to in the Lebanese constitution, it is now a legal right.

Score: 0

18.2. Does the right of access to information apply to all materials held by or on behalf of public authorities in any format, regardless of who produced it?

Yes, the right applies to materials held by or on behalf of public authorities, but there are exceptions for certain documents¹⁶⁴.

The right applies to materials held by or on behalf of public authorities, but there are exceptions for certain documents. Article 5 of the access to information law lists the documents that cannot be accessed:

Administrative documents which cannot be accessed are the ones relation to:

- Secrets of national defense, national security and public security.
- State's secret foreign relations.
- Financial and economic interests of the state and safety of the national currency.
- Individuals' privacy, mental and physical health.
- Secrets protected by the law, such as professional and trade secrets.

Score: 0.5

18.3. To which branches and bodies does the right of access apply?

Article 2 of the Access to information law (ATI) lists the entities that fall under the definition of public administration:

- All Public Institutions
- Independent administrative bodies
- State owned enterprises
- Courts, bodies and councils of a judicial or arbitral nature, ordinary and extraordinary including judicial, administrative and financial courts without sectarian courts.
- Municipalities and union municipalities
- Private institutions and companies in charge of the management of a public utility or property
- Mixed Joint Companies
- Institutions of public interest
- Other public law persons. Sectorial bodies, particularly the oil management body, the sovereign fund and other funds¹⁶⁵.

Score 0.75

18.4. Are there clear and reasonable maximum timelines for responding to a request, regardless of the manner of satisfying the request?

Article 16 of the ATI Law, stipulates that the response to the request is 15 days starting from the day of the submission of the request able to be expanded once for an additional 15-day period¹⁶⁶.

Score 1

18.5. Are exceptions to the right of access consistent with international standards?

Article 5 of the ATI law lists the exceptions to the right of access to information where the conservation of the environment is non-existent¹⁶⁷.

¹⁶³ <http://www.executive-magazine.com/special-feature/a-step-toward-transparency>

¹⁶⁴ <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=269965> art 5

¹⁶⁵ <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=269965> art 4

¹⁶⁶ <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=269965>

¹⁶⁷ <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=269965>

Score 0.75: 7 or 8 points

18.6. Is a harm test applied to all exceptions, so that disclosure may only be refused when it poses a risk of actual harm to a protected interest?

Score: 0

18.7. Is there a mandatory public interest override so that information must be disclosed where this is in the overall public interest, even if this may harm a protected interest? Are there 'hard' overrides (which apply absolutely), for example for information about human rights, corruption or crimes against humanity?

The exemptions under the Access to Information (ATI) law are absolute and the public interest test does not apply.

Score 0

18.8. Is there an independent Information Commission, or a similar oversight body, with whom requestors have the right to lodge an external appeal?

Articles 22 and 23 of this law indicates that the national anti-corruption commission is responsible for receiving the complaints and acts as an intermediary between the complainant and the concerned court¹⁶⁸. However, this commission is yet to be established, therefore, there is no an independent oversight body responsible for the appeals.

Score:1

18.9. * Does the law/policy on access to information contain minimum standards on mandatory proactive (automatic, without having to be requested) publication of information?

Articles 6 to 9 of the ATI law list the information that have to be automatically released without pre-approval. All the laws and decrees from different types have to be published in the public Gazette (art.6). All the decisions, instructions, circulars and memorandums containing an interpretation of laws and regulations or of an organizational nature, within fifteen days of the issuing date have to be published on the public administration's official website. Additionally, the publication has to be in the Official Gazette. Subject to the provisions of article 5 of this law, all operations under which public funds exceed 5 million LBP shall be published within one month from the date of the completion of the whole operation or of one of its instalments. The publication shall include the following: 1- the value of the exchange, 2- the method of the payment and the purpose (e.g. tender, consensual contract, execution of a judgment), 3- The salaries and compensation of employees shall be excluded from the provisions of this article (art.7). Annual reports shall also be published. Public administrations, with respect of the hierarchy, the respective head of each department shall develop an annual report on its activities. The judiciary, the body responsible for the supervision of the judicial, administrative, financial, doctrinal, spiritual and legitimate judiciary (e.g. Supreme Judicial Council, State Consultative Council) shall publish 1) Information on the mechanism of the administration including the costs, objectives, rules, achievements and difficulties that hindered the work process and audited accounts. 2) The approved general policies and projects of the administration concerned, implemented and not implemented and the reasons for this, and any suggestions that contribute to the development of the work of the department (art8). All the documents previously mentioned should be published on the administration's official website¹⁶⁹.

Score 1

¹⁶⁸ <http://www.legallaw.ul.edu.lb/Law.aspx?lawId=269965> art 22,23

¹⁶⁹ <http://www.legallaw.ul.edu.lb/LawArticles.aspx?LawTreeSectionID=281538&LawID=269965&language=ar>

a. How do you, based on the evidence available to you, evaluate compliance by public bodies with these requirements to proactively release information?

In order to be able to evaluate the compliance by public bodies with the requirements of this law, there should be an operational framework and policies and an actual enforcement of the law. However, in the absence of these requirements, the evaluation wouldn't be accurate and based on actual scientific evidence.

18.10. What is the country's score in the Right-To-Information Rating? (<http://www.rti-rating.org/country-data/>)

No data, Lebanon is not mentioned in the indicator.

18.11. * What are shortcomings of the access to information regime?

1. Does the law...

- *Create a specific presumption in favor of access to all information held by public authorities, subject only to limited exceptions, consistent with international standards?*

YES

- *Grant everyone (including non-citizens, non-residents and legal entities) the right to request information?*

According to article 10, natural and legal persons have the right to access information. The law puts no limitations on access to information for non-citizens and non-residents.

- *Provide a right to both information and access to records/documents?*

YES

- *Allow for partial access (a document can be redacted and then be partially released)?*

YES (art 17)

- *Establish an effective appeals mechanism?*

The law would have had an effective appeal mechanism in case the national anti-corruption committee referred to in the law gets created.

18.12. * Are there any factors that, in practice, make it unnecessarily burdensome and difficult to request or gain access to information?

The ATI law in Lebanon, does not produce any effective results on the ground due to the lack of its enforcement and the absence of an implementation guide or policies.

18.13. * How many requests for information were made to public authorities each year in the previous two years?

No data, in the absence of the national anti-corruption commission.

18.14. Have there been any developments in the past two years that suggest an improvement or deterioration in the framework for public access to information and/or its implementation?

No, in the absence of the national anti-corruption commission.

Appendix:

Annex 1:

Active bribery of national public officials: p.19/21 170

- Ruling No. 186/2009 of 12 November 2009 - Criminal Court of Cassation - A prisoner bribes internal security forces officers in exchange for the delivery of a number of objects whose introduction in prison is prohibited (Offence - Article 353 / Criminal Code).
- Ruling No. 24/2001 of 31 January 2001 - Criminal Court of Cassation - Two customs agents committed acts contrary to their functions in return for money. Their act induced a loss of fees for the Treasury (Article 353 / Criminal Code).
- Ruling No. 245/2005 of 10 April 2005 - Criminal Court of Cassation - A defendant acted as an intermediate between a third person and a sergeant so that the former pays a sum of money to the latter so that he refrains from drafting a seizure report and a traffic violation (Bribery offence - Article 352 - Penalties provided for Article 219 of the Criminal Code).
- Ruling No. 32/2008 of 19 February 2008, a summary of which is included in the Appendix, convicts' public officials for soliciting bribes to carry out acts contrary to their functions, under Articles 352 and 353 of the Criminal Code.
- Ruling No. 320/2012 of 8 November 2012, a summary of which is included in the Appendix, convicts a teacher at the Lebanese University for a committing a bribery, under Article 352 of the Criminal Code.
- Ruling No. 77/2012 of 15 March 2012, a summary of which is included in the Appendix, convicts a female prison guard for bribery offence, under Articles 352 and 353 of the Criminal Code.

Annex 2:

Embezzlement, misappropriation or other diversion of property by a public official (p.28/29)

- Ruling No. 259/2000 issued by the Criminal Court of Cassation, 7th Chamber, on 26 December 2000 - Embezzlement by the insertion of incorrect writings in transfers in order to prevent the discovery of embezzlement (offence provided for in Article 360 and Article 359 of the Criminal Code).
- Ruling No. 291/2003 issued by the Criminal Court of Cassation, 6th Chamber, on 26 December 2000 - Embezzlement by an official of some funds he was in charge of collecting on behalf of a public enterprise (offence provided for in Article 360 and Article 359 of the Criminal Code).
- Ruling No. 67/2005 issued by the Criminal Court of Cassation, 6th chamber, on 10 March 2005 - Officials removed tax stamps and delivered them to a third person to affixed them on other transactions documents instead of new stamps and then shared among themselves the amounts of money resulting from these acts, which constitutes an offence of embezzlement of public funds (offence provided for in Article 360 and Article 359 of the Criminal Code).
- Ruling No. 334/2005 issued by the single judge of the Criminal Court in Beirut on 27 December 2007 - A branch manager stole money from the bank (offence provided for in Article 360 and Article 359 of the Criminal Code).
- Ruling No. 122/2009 issued by the Criminal Court of Cassation, 6th Chamber, on 16 July 2009
- The defendant embezzled an amount of money belonging to a detainee and placed in the custody of the Division of Public Security Inspection while he was in charge of preserving it on

¹⁷⁰https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2016_03_08_Lebanon_Final_Country_Report.pdf

account of his functions, which constitutes an offence of public funds embezzlement (offence provided for in Article 360 and Article 359 of the Criminal Code).

- Ruling No. 125/2009 of 16 July 2009 issued by the Criminal Court of Cassation, 6th Chamber
 - The defendant received transfer amounts and kept them in his possession instead of depositing them in the Treasury or the Mutual Fund of Judges. He placed a copy of the Transfer Order in the file and gave the persons concerned a payment receipt without mentioning in the file or in the record that the amount of the transfer was received by LibanPost.
- Ruling No. 228/2009 issued by the Criminal Court in Beirut on 30 July 2009 - Conviction of officials in a Cooperative of State Officials for an offence provided for in Articles 359 and 360 of the Criminal Code for associating in the embezzlement of public funds belonging to the Cooperative by inserting false information.
- Ruling No. 89/2010 of 30 March 2010 issued by the Criminal Court of Cassation, 6th Chamber
 - Prosecution of officials on charges of embezzlement of public funds pursuant to Article 360 of the Criminal Code (the relevant minister gave permission to prosecute at the request of the Public Prosecution under Article 61 of the Staff Regulations – Decree-Law No. 112/1959). It should be noted that the referral of the case by the Financial Appellate Public Prosecutor to the Office for Combating Financial Crimes for investigation, should suspend the statute of limitations on public proceedings.
- Ruling No. 350/2011 of 5 September 2011 issued by the Criminal Court of Cassation, 6th Chamber - Prosecution of officials on charges of embezzlement by inserting false entries in the invoices or books, by forging or destroying accounts, documents, and other instruments, and in general, by using any ploy to prevent the discovery of embezzlement (priority is to enforce Article 360 of the Criminal Code in the event of aggravating circumstances. Enforcement of Article 359 of the Criminal Code is ruled out pursuant to the rule stipulated in Article 181 of the Criminal Code, so that the defendant is not convicted twice for the same criminal act).
- Ruling No. 263/2012 of 24 August 2012 issued by the Criminal Court of Cassation, 6th Chamber - Prosecution of an official on charges of embezzlement of public funds as he received a check and deposited it in his bank account and benefited from its value.

Embezzlement, misappropriation or other diversion of property by a public official (p.28/29)

Annex 3:

Reviews and judgments:

- Review No. 9/1045 of 1 February 2010 - Prosecution of the treasurer of the municipality of Ajaltoun on charges of embezzlement of municipal funds (referral to the Court of Accounts and the Public Prosecution of the Court of Cassation).
- Court Ruling No. 72 of 13 July 2010 - Officials fined for embezzling public funds from the General Directorate of Public Security.
- Review No. 123/2946 of 17 October 2011- Misappropriation of funds from a payment fund of the Ministry of Finance (prosecution before the Court of Accounts and referral to the Public Prosecution of the Court of Cassation).
- Review No. 128/1484 of 31 October 2011 - Misappropriation of funds belonging to the Lebanese power utility (EDL).
- Court Ruling No. 75 of 6 October 2011 - Tax collectors fined for collecting funds for the Water Utility of Beirut and Mount Lebanon without remitting them to the Fund.

- Review No. 142/3745 of 23 November 2011- Misappropriation of funds from one of the funds of the water utility of Beirut and Mount Lebanon (Court of Accounts + Court of Cassation).
- Review No. 71/1323 of 28 March 2012 - Misappropriation of funds from the Telephone Exchange of Mazraa by the Treasurer (prosecution before the Court of Accounts and referral to the Public Prosecution of the Court of Cassation)
- Review No. 78/1654 of 10 April 2012 - Misappropriation of customs funds and duties - Port of Beirut.

Annex 4:

Trading in influence

Sub-paragraph (a)

- Ruling No. 128/2003 of 30 April 2003 – Criminal Court of Cassation - Exerting influence and giving promises to regularize the situation of conscripts for their exemption from military service.
- Ruling No. 29/2004 of 23 January 2004 – Criminal Court of Cassation – Soliciting the enrolment of a person in the Military Academy in exchange for a sum of money. See also the Jurisprudence included in Document No. 37.
- An agent in the Power Utility of Lebanon modified a circuit breaker and removed seizures to reduce the readings of the meter of power supply consumed in return for three hundred (300) United States dollars (the Central Inspection Board issued a recommendation to refer the agent to the Higher Disciplinary Commission to toughen disciplinary sanctions, in addition to filing a copy of the file with Public Prosecutor of the Court of Cassation.

Annex 5:

Abuse of functions

- Decision of the Central Inspection Board (Document No. 25): The investigation determined the existence of suspicious transactions carried out by a former Director General for obtaining material benefits: the amounts of some invoices were inflated.
- All the floors of a building under construction, from the ground floor to the third floor inclusive, were included while only the ground floor and the first floor were achieved

Annex 6:

Trading in influence/ Sub-paragraph (a)

- Ruling No. 128/2003 of 30 April 2003 – Criminal Court of Cassation - Exerting influence and giving promises to regularize the situation of conscripts for their exemption from military service.
- Ruling No. 29/2004 of 23 January 2004 – Criminal Court of Cassation – Soliciting the enrolment of a person in the Military Academy in exchange for a sum of money. See also the Jurisprudence included in Document No. 37.
- An agent in the Power Utility of Lebanon modified a circuit breaker and removed seizures to reduce the readings of the meter of power supply consumed in return for three hundred (300) United States dollars (the Central Inspection Board issued a recommendation to refer the agent to the Higher Disciplinary Commission to toughen disciplinary sanctions, in addition to filing a copy of the file with Public Prosecutor of the Court of Cassation.

Annex 7:

Laundering the proceeds of crime p.51

In regard to the cited case of Al-Madina Bank the reviewing team held it did concern the money laundering charges, but did not specify the concealment or disguise of the illicit funds derived from commission of UNCAC offences. Lebanese authorities explained further that the case

revolved around allegations of abuse of authority by senior employees, bribery inside and outside the bank, embezzlement of private funds and fraud.

Annex 8:

Obstruction of Justice

Subparagraph (a)

Verdict of the single criminal judge in Tyre No. 156/2012 dated 3/8/2012. The misdemeanor of abuse of authority and complicity. The acts of defendant B regarding his request for the sum of LL 10,000,000 from witness X in order to influence the decision of the Court of Appeal, constitute a misdemeanor (Article 357 penal code). The act of defendant A regarding his complicity in defendant B's solicitation of the said sum by contacting the witness and assuring him that B is well-connected, and his complicity, without which B would have been unable to reach the witness, constitute a misdemeanor (Article 357/202 penal code). Based on Article 181/ penal code, they are convicted of fraud attempt and of complicity, both of which apply to them, for being the most severe sentence (p.64).

Subparagraph (b)

In recent years, several judges and inspectors from the Central Inspection Board were subjected to threats and terrorism acts aimed at preventing them from carrying out their official duties. Also, there are several cases in this respect, including a review from the Public Prosecutor at the Court of Accounts No. 62/3257 of 12 April 2010 and review No. 175/2412 of 23 December 2010.