LEBANON: PROGRESS TOWARDS SDG16
SECOND REPORT ON SDG 16.4, 16.5, 16.6 and 16.10

16 PEACE, JUSTICE AND STRONG INSTITUTIONS
SDG16 in Lebanon:
Assessment of the legal and institutional frameworks and implementation
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<td>MoIM</td>
<td>Ministry of Interior and Municipalities</td>
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<td>TI</td>
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<td>CEDRE</td>
<td>Conférence Économique pour le Development par les Réformes et avec les Enterprises</td>
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<td>Voluntary National Report</td>
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<td>HLPF</td>
<td>High Level Political Forum</td>
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<td>PEP</td>
<td>Politically Exposed Persons</td>
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<td>DNFBP</td>
<td>Designated Non-Financial Businesses and Professions</td>
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<td>HCPP</td>
<td>Higher Council for Privatization and Partnership</td>
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<td>MAPS</td>
<td>Methodology of Assessment of Procurement Exercise</td>
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<td>BdL</td>
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<td>FATF</td>
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<td>Beneficial Ownership</td>
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<td>MLA</td>
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<td>NACC</td>
<td>National Anti-Corruption Commission</td>
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Acknowledgment

The Lebanese Transparency Association (LTA) is pleased to express its gratitude to those who contributed, directly or indirectly, to the production of this report, including LTA’s team, partners and friends. A special appreciation is given to the interviewees listed below: 1- MP Sami Gemayel and his team 2- The Institute of Finance, Basil Fuleihan, 3- The Higher Council for Privatization and Partnership and 4- Me. Karim Daher for their crucial role in sharing their knowledge about the topics studied in this report as they provided added value to the content and outcomes.

This publication has been produced with the assistance of Transparency International, Berlin. The contents of this publication are the sole responsibility of LTA – and can in no way be taken to reflect the views of Transparency International.
Introduction and Background

“The Lebanese Government recognizes that the implementation of structural and sectorial reforms is critical to attract new investment and implement modern and strategic infrastructure. The Government committed to reforms, which are needed to address structural difficulties and loopholes, and foster public and private investment in a sustainable way. Regarding structural reforms, the Lebanese government stressed that fighting corruption, strengthening governance and accountability, including public finance management, modernizing procurement rules, reforming customs and improving public investment management are of utmost importance. In addition, Lebanese authorities will continue to strengthen their anti-money laundering efforts and to take steps to counter the financing of terrorism in line with international standards.” Joint Statement, CEDRE Conference, 6 April 2019.

Despite the reform commitments of the former Lebanese government at the Conférence Économique pour le Development par les Réformes et avec les Enterprises (CEDRE) on 6 April 2018 in Paris, uprisings in Lebanon started on October 17, 2019, when Lebanese citizens took the streets in response to proposed tax on the communication service application WhatsApp. The Lebanese suffer from their political system, which is based on nepotism and sectarian identity and has failed to provide citizens with their most basic rights. The decentralized protest movement taking place across Lebanon is making a series of overarching demands beginning with daily basic rights and moving up the scale to the overall political system operating in the country. People are requesting the formation of a non-sectarian, technocratic government that will help the country overcome the economic crisis and put an end to the shortcomings of the government’s role.

The newly government formed headed by Prime Minister Hassan Diab on 21 January 2020, is strongly urged to implement the anti-corruption and good governance commitments mentioned in its ministerial statement in addition to developing reform measures among its top priorities; in addition, it should develop policy and action plans to ensure better public services, such as electricity, water and health care. These reforms would directly answer the SDG2030 agenda and its relevant goals and targets.

This report provides a list of important SDG16 anti-corruption-related topics that should be considered by the current government so it can actively take part in the development agenda at the national level.

https://lb.ambafrance.org/IMG/pdf/cedre_joint_statement_april_6_2018.pdf?3153/1e9cc850e1c7614f8f678d8274e09d3f49a4672d
SDGs and the 2030 Agenda

By adopting the 2030 Agenda for Sustainable Development in September 2015, the 193 Member States of the United Nations committed to a set of 17 universal goals for the next fifteen years. Through the common thread of the 17 Sustainable Development Goals (SDGs), developed and developing countries have agreed to mobilize efforts to achieve a more sustainable World. SDGs address the global challenges of the Millennium, ranging from ending all forms of poverty and fighting inequalities to promoting strong governance and ensuring environmental sustainability. Among these 17 Targets, one of them will be of particular interest for this study. SDG 16 “Peace, justice and strong institutions” aims at reducing all forms of violence, promoting responsive, inclusive, participatory and representative decision-making processes, developing effective and accountable institutions and ensuring access to justice for all. More specifically, SDGs 16.4, 16.5, 16.6 and 16.10 are of utmost relevance when it comes to promoting Integrity, good governance and anti-corruption.

“The 2030 Agenda is our roadmap and its goals and targets are tools to get there.” – United Nations Secretary-General António Guterres

Success relies on countries’ own sustainable development policies, plans and reforms, while SDGs serve as “a compass for aligning countries’ plans with their global commitments”. All national stakeholders, from governments to private sector and civil society, are expected to contribute to the implementation of the 2030 Agenda. As part of an inclusive participatory approach, the 2030 Agenda encourages States to "conduct regular and inclusive reviews of progress at the national and sub-national levels, which are country-led and country-driven" (paragraph 79). The Voluntary National Reviews (VNRs) provide important communication tools to change mindsets, draw lessons and identify areas where support is needed. They also serve as a basis for the regular reviews by the high-level political forum (HLPF).

SDGs and Lebanon

Lebanon took up the challenge of the 2030 Agenda and the SDGs in September 2015. Since then, despite the difficulties related to its inherent situation, Lebanon has been an active participant in the process of implementing SDGs. As part of these efforts, in November 2017 the Lebanese Parliament formed a commission to ensure coordinated policy support by the Parliament for the advancement of the SDGs. That same year, the Council of Ministers established a National Committee on SDGs, the SDG Council, headed by the Prime Minister and composed of representatives from public institutions, civil society and the private sector. In the course of its duties, the SDG Council is responsible for promoting and tracking progress towards the SDGs, providing strategic direction and mobilizing

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resources and the necessary partnerships\(^3\). In March 2018, the SDG Council set up four thematic groups according to the 5Ps of the SDGs (People, Planet, Prosperity, Peace and Partnership) and a Statistical Task Force\(^4\).

In July 2018, Lebanon submitted its first Voluntary National Review (VNR) at the High Level Political Forum. Despite suggested improvements, the VNR was perceived as an encouraging step towards an inclusive, participatory and transparent dialogue process on sustainable development. It provides a general overview of Lebanon’s current situation regarding SDGs and outlines achievements, ongoing projects and remaining challenges for each of the 17 SDGs.\(^5\)

**Rationale for the policy paper**

This report is intended to form part of civil society’s contribution to the implementation of the SDGs in Lebanon, in accordance with Paragraph 89 of the 2030 Agenda.\(^6\)

Because Lebanon is still ranked 138\(^{th}\) out of 180 countries in terms of corruption, with an unfortunate score of 28 out of 100 in 2018, the fight against corruption and the promotion of new measures of transparency and good governance are of paramount importance for the country.\(^7\)

Progress towards SDG 16 is the key to overcoming this scourge and a prerequisite for any kind of political, social or economic development in Lebanon.

This policy paper aims to draw a clear picture of the state of play of the Lebanese legal and institutional framework in relation to SDG 16 (targets 4, 5, 6 and 10) (I), and produce a comprehensive update on progress, drawbacks and remaining challenges in the implementation of SDGs in Lebanon (II). From these analyses will result precise and well-defined recommendations (III).

I. **The state of play.** Since specific recommendations can only be drawn up on the basis of clear data, the report starts by setting out the big picture of the current legal and institutional framework relating to governance and corruption. The report conducts an assessment of the strengths, weaknesses and concrete implementation of reforms related to each sub-target.

II. **An analysis of progress and drawbacks.** The heart of this report is analysis of any changes that have taken place from the 2018 VNR to the present. This entails evaluating any progress, drawbacks and remaining challenges since the VNR, in which the Lebanese government made commitments to improve Lebanon’s performance towards SDGs and particularly on the topics related to SDG16. This assessment is the only way to measure the pace of the implementation processes concretely.

III. **Recommendations.** Based on all the findings of this report, a number of realistic, to the point and precise recommendations will be provided in order to accelerate the implementation of SDG 16 in Lebanon. To guarantee efficient results, recommendations are listed according to their intended stakeholder recipient.

**Methodology**

Three steps were taken to develop this policy paper; they are listed as follows:

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\(^3\) United Nations Global Compact Lebanon website, SDG Council. [https://www.globalcompact-lebanon.com/sdg-council/](https://www.globalcompact-lebanon.com/sdg-council/)


\(^6\) Paragraph 89 of the 2030 Agenda calls on major groups and other stakeholders, including local authorities, to report on their contribution to the implementation of the Agenda. Local and regional governments have a wealth of valuable experience in the "localization" of the 2030 Agenda, where they provide leadership in the mobilization of a wide range of stakeholders, the facilitation of "bottom-up" and inclusive processes, and the formation of multi-stakeholder partnerships.

\(^7\)Corruption Perception Index, 2018. Transparency International Website. [https://www.transparency.org/country/LBN](https://www.transparency.org/country/LBN)
I. As a starting point, the legal and institutional framework analysis is based on desk-based research in addition to answers provided by a number of interviewees who filled knowledge gaps related to the legal and institutional framework (due to the lack of availability of online information). The list of 25 priority and context-driven questions was chosen from the questionnaire prepared and published by TI in 2017.8

II. The second step consisted of desk-based research to find updates that had occurred in Lebanon since the questionnaire was established. This included various sources of information, from official documents (of Parliament, Ministries or Specialized Institutions) to data contained in CSOs and private sector thematic publications. The data collected highlight any new legislation, regulations, or institutions, as well as any information on the implementation of recent measures. The progress and challenges stated in the 2018 VNR are the basis for the further research conducted in this report. Collecting data on the latest updates relating to SDGs was challenging due to the lack of available information online.

III. Once the desk-based research was completed, data were supplemented through 5 consultation meetings with key state entities and relevant CSOs, including financial institutions, lawyers specialized in commercial law and taxation, The Higher Council for Privatization and Partnership (HCP), the Bassil Fuleihan Institute of Finance and Members of the Lebanese Parliament. Each of the stakeholders was sent a list of 25 questions, general questions on progress towards SDG 16 and more specific questions on each sub-target. The report was then finalized with the valuable and practical information obtained during the meetings.

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”

1. Anti-Money Laundering (AML)

Lebanon is known to be among the countries with a high risk of money-laundering activities. According to Basel Anti-Money Laundering Index 2019, Lebanon scored 5.46 out of 10 and ranked as having the 55th highest AML risk out of 125 countries9 Also, over a 10-year period (from 2005 to 2014) illicit financial flows moving back and forth between Lebanon and foreign countries reached 32.6 billion USD according to Global Financial Integrity (GFI)10. Many contributing factors can be stated, including, among others, the lack of transparency in the international financial system, which encourages the establishment of shell companies, paying large amounts of money in bribery and corruption in addition to unrecorded transactions that probably include illicit transactions, and lack of anti-money laundering law enforcement at the national level11.

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9Basel Institute on Governance, BASEL AML Index 2019. https://www.baselgovernance.org/basel-aml-index/public-ranking
11 Nakhoul, SH. Ibid.
Additionally, Lebanon had a very high secrecy score (72/100) with a rank of 11 out of 112 countries in 2018.12 A first observation of these numbers, leads to the conclusion that Lebanon remains in a challenging position vis-à-vis mitigating money laundering risks. Therefore, it is important to look at the anti-money laundering legal and institutional framework currently existing in Lebanon and the recent progress that has taken place over the past year, if available. The section below highlights the international and national anti-money laundering measures adopted by Lebanon. Moreover, the domestic provisions pertaining to Bearer Shares and the Designated Non-Financial Businesses and Professions are also analyzed as any weakness at the regulations level can represent a critical entry point for money laundering.

1.1 Legal and institutional framework

1.1.1 Criminalizing money laundering

- The International Anti-Money Laundering Legal Instruments

Lebanon ratified the two major international conventions related to money laundering: the United Nations Transnational Organized Crime (UNTOC), also known as the Palermo convention, in 2005 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1996. Lebanon is also one of the 98 countries that signed the agreement on automatic exchange of financial account information, which requires jurisdictions to assess their AML/KYC regulations and determine whether they are in line with the FATF recommendations that promote the effective implementation of legal, regulatory and operational measures for combatting money laundering and terrorism financing.13

- National Laws

States, according to International Law and the hierarchy of norms, are required to translate the provisions of the international instruments ratified to their national legal framework. Therefore, they need to promulgate laws, regulations and policies complying with the international conventions. To that effect, Lebanon passed the below laws (by the Parliament) and basic circulars (by the Central Bank – BDL-).

1- Lebanon complied with the Financial Action Task Force (FATF)14 and the Palermo convention by passing Law No.31815 in 2001, and amended it in 2003. This law:
- Allows the lifting of banking secrecy and criminalizes money laundering in the broad sense of the term as it does not limit the offence to drugs but goes beyond by authorizing suspicious transactions reporting.
- Introduces the Know Your Customer (KYC) policy and guarantees access to banking information and records by judicial authorities. The 2003 amendment added the criminalization of terrorism financing to the list of offences.

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14 The third recommendation of the FATF provides that: “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”.
• **Widens the list of financial institutions** subject to the Banking Secrecy Law of September 1956 to include financial intermediaries, whether they are banks, companies, real estate and construction companies, dealers in high-value commodities, insurance companies, etc.

• Requires all financial institutions subject to the provisions of the law to avoid involvement in concealing laundered funds resulting from the offences listed by the law through controlling their operations with their clients and provides a **list of obligations** banks should follow. These include obligations for the banks to:

  o **Identify** their permanent clients and the **beneficial owners** of the accounts; additionally, conduct an identity verification process of transient clients when the value of the operation exceeds a certain amount.
  o **Keep records** of all documents related to completed operations or to closing accounts.
  o Develop indicators that **reveal** the existence of money-laundering cases and apply the due diligence that leads to suspicious operations detection.
  o **Desist** from submitting erroneous statements that deceive administrative and judicial authorities.
  o **Comply** with the provisions of the law and **report** any violation detected to the Governor of Banque du Liban (BdL).
  o **Comply** with Recommendation No.20 of the FATF, **report** any suspicious transaction that could be related to money laundering to the Special Investigation Commission (SIC).

2- The Lebanese Parliament passed **Law No.44** on Anti-Money-Laundering and Terrorist Financing (AML/TF) in 2015. It amended and replaced Law No. 318 while adding the principles of banking secrecy in compliance with international anti-money laundering standards and best practices.

3- Law No. 55/2016, on exchange of information for tax purposes, was passed in 2016. Its fifth requirement states that if a money laundering case is detected, banking secrecy shall be lifted by the relevant authorities (i.e. The Special Investigation Commission – SIC).

• **BDL Circulars**

  **Circular No.83** issued by Banque du Liban (BdL) in 2001 and attached to Basic Decision No.7818 on Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorism Financing (AML/TF), was addressed to Banks and Financial Institutions. This circular provides guidelines for managing the relationship with foreign correspondent banks abroad (Section 1), the relationship with customers and due diligence measures (Section 2), controlling certain operations and customers (Section 3) and the committees and administrative units in charge of the control of operations for fighting money laundering and terrorist financing and their tasks (Section 4).


On November 24, 2015, the Lebanese Parliament issued **Law no. 53**, which authorized the Lebanese Government to accede to the 1999 International Convention for the Suppression of the Financing of Terrorism. The accession instrument was also deposited at the United Nations after following the formal diplomatic process.

  **Circular No.139**, issued by Banque du Liban (BdL), provided a common reporting standard. It set up new reporting requirements and due diligence procedures to identify reportable accounts in
compliance with international recommendations of the OECD Global Forum on Transparency and Exchange of information for Tax Purposes.

In 2019, Lebanon finalized the national ML/TF Risk Assessment. On September 18, 2019, the Special Investigation Commission (SIC) issued Circular No.25 on the National ML & TF Risk Assessment addressed to Banks, Institutions and Parties referred to in Articles 4 & 5 of AML/CFT Law No. 44 dated 24/11/2015. Furthermore, in an attempt to strengthen the anti-money laundering domestic legal framework, Lebanon ended the issuance of bearer shares and regulated the operations of the Designated Non-Financial Businesses and Professions (DNFBPs) as both can pose a high risk of money laundering.

1.1.2. Bearer shares
Bearer shares are those owned by the person who holds the physical stock certificate. The issuing does not register the owner of the stock or monitor transfers of ownership. Bearer shares have been abolished in many countries due to the high potential risk of their facilitating money laundering. The holders of bearer shares can be unknown since these shares are physical stock certificates; the issuing firms do not register their owners or track their transfer. Complying with Recommendation 10 of the FATF, Lebanon passed Law No.75 in 2016, cancelling bearer shares and promissory notes as a way to ensure the monitoring of shares transfer from one owner to another.

This law is completed by other provisions, such as:
- Circular No.411 issued by Banque du Liban in 2016, prohibiting banks from performing any operations with entities whose shares are issued in bearer form.
- The due diligence convention on the commitment by Banks operating in Lebanon to combat money laundering of illegal drug-trade funds, signed in 1997 by all the operating banks in Lebanon.

1.1.3 Designated non-financial businesses and professions (DNFBPs)
As per international regulations, states need to enact regulations that oblige financial institutions and designated non-financial businesses and professions (DNFBPs) to actively identify, assess and take effective mitigation measures against money laundering and terrorism financing risks. Therefore, and in line with recommendations 22 and 23 of the FATF, designated non-financial businesses and professions (DNFBPs) should fulfil certain obligations related to money laundering. In Lebanon, DNFBPs include casinos, public notaries, accountants, lawyers, dealers in precious metals, dealers in precious stones and real estate brokers.

According to Law No.318:
- DNFBPs should keep detailed records of transactions exceeding a certain amount.
- DNFBPs should also verify the identity of customers and their addresses, and keep copies thereof.

1.2 Weaknesses
Assessment of risks. The Lebanese government has not conducted any assessment of money laundering risks related to legal persons and arrangements, in line with principle 2 of TI’s “Just for Show” report. It is important to conduct risk assessments to keep the monitoring process

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ongoing, taking into account the likelihood of money laundering and terrorism financing and their impact on the national economy.

**PEPs.** Financial institutions are not obliged by law to take necessary measures for risk management to identify whether the future or current customer or the beneficial owner is identified as a Politically Exposed Person (PEP) and, consequently, to establish policies and take appropriate measures to prohibit the misuse of technology for money laundering and terrorism financing ends. However, art.9 of circular No.83 stipulates that banks should adopt a risk-based approach to classify customers and operations according to different risk levels, low, medium and high, for foreign PEPs who hold or have held important official positions, their family members and close associates. The circular also sets up an adequate system in order to determine whether the foreign customer is a PEP. Nevertheless, Lebanon does not apply the obligation of conducting enhanced due diligence where the customer is a domestic PEP.

### 1.3 Implementation

**DNFBPs reporting.** The implementation of the provisions related to DNFBPs shows encouraging results. This is despite the fact that DNFBPs are not obliged by law to notify the SIC of information related to suspicious transactions that might be related to money laundering.

**Effective prosecution.** In 2018, the number of ML/TF cases reached 489, divided between local and foreign sources. Thirty allegations were sent from the Special Investigation Commission to the Office of the Prosecutor General. During the year, 78 spontaneous disclosures were also handled, and risk based AML/CFT onsite compliance examinations covered 22 banks, 17 finance companies, 21 insurance companies, 90 money dealers, 8 brokerage firms, and 2 money remittance companies, as well as DNFBPs.

**Effective reporting.** In 2018, the SIC received almost 455 cases of suspicious transactions from Banks, Money Remittance Companies, Financial Institutions, Insurance Companies, Notaries, and Money Dealers. These cases were divided between money laundering, terrorism financing, embezzlement of private funds and forgery.

**Compliance with International Standards.** In 2019, BdL Basic Circular 83 was amended, bringing the PEPs definition into line with that of FATF Standards.

### 1.4 Recommendations

- Lebanon should ensure the development by banks of indicators that can reveal the existence of money-laundering cases and the application of the due diligence that leads to the detection of suspicious operations.

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Countries should assess the existing and emerging risks associated with different types of persons and arrangements, which should be addressed from a domestic and international perspective.


[ MENA FATF](http://www.menafatf.org/sites/default/files/Newsletter/Lebanon%20Exit%20Report%20EN.pdf)


21 Ibid.

22 Ibid.
A money laundering risk assessment for legal persons and arrangements should be established.

Lebanon must abide by the requirements of the multilateral competent authority agreement on exchange of country-by-country reports and effectively implement them.

The SIC and the national banks need to make more effort to comply with the forty recommendations of the FATF through developing and passing national laws that translate them internally.

DNFBPs should implement anti-money laundering requirements in line with the 40 recommendations of FATF.

Banks need to establish strong risk management measures to be able to identify PEPs and execute higher due diligence. A supervisory authority for the DNFBPs should be established to monitor their compliance with the FATF standards.

2. Beneficial Ownership Transparency

Beneficial Ownership (BO) refers to the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

2.1 Legal and institutional framework

- National Laws and Regulations

There are laws and circulars tackling Beneficial Ownership in Lebanon, which can be listed as follows, divided between national laws and BdL Circulars.

1- Law No. 106/2018, published in the Lebanese official gazette on December 6, 2018, modified clauses in tax procedure law No.44/2008 and added a paragraph (12) in its first article defining Beneficial Owner as “any natural person, who actually and ultimately owns or controls, directly or indirectly, an activity implemented by any natural person or legal entity on the Lebanese territory, regardless of his place of residence. Moreover, the law imposes on taxpayers to provide annual declaration on the background information of the beneficial owners of every activity they execute”.

2- The same definition of Beneficial Ownership as that defined by Law No.106 is replicated in art.1 of decision No. 1472/2018 issued by the Minister of Finance, which comprises the mechanisms to identify the Beneficial Owner. The importance of disclosing information regarding the Beneficial Owner is the possibility of being able to monitor PEPs and their family or close friends’ assets and the mobility pattern of their financials.

3- Law No.44/2015, modifying Law No.318 of the Central Bank, requires the payment of every transition fee executed.

4- Law No.84/2018 on Strengthening Transparency in the Petroleum Sector, addresses the issue of Beneficial Ownership by mandating the disclosure of Beneficial Ownership of direct license-holders and all subcontracted companies.

23 FATF definition

24 Interview with Me. Karim Daher, President and Founding Member of the Lebanese Association for Taxpayers, and specialized in commercial law and taxation, 9 September 2019.
5- Art. 26 of the Code of Commerce was amended to comply with art.3 of law No. 126 of 29/3/2019 requiring joint stock companies to disclose information on BOs upon registration.

- **BDL circulars**

1- **Circular No. 147/2019** issued by the Central Bank of Lebanon requires every person who opens a bank account to provide a financial registration certificate.

2- Article 3 of BDL Basic **Circular B3** (addressed to banks and financial institutions) establishes the definition of Beneficial Owner in line with FATF Standards. Article 9 of the said circular establishes the identification process of the Beneficial Owner for customers that are legal persons and legal arrangements. SIC **Circular 24/2018**, addressed to parties and institutions referred to in Article 5 of AML/CFT Law 44 dated November 24, 2015, also establishes the definition and the identification process of the Beneficial Owner in line with FATF Standards.

   This obligation especially arises in five different instances before or upon dealing with customers or opening accounts of any kind.

   More specifically, this obligation requires banks and financial institutions:

   - To identify the Beneficial Owner and fill out the KYC form while opening all types of accounts, including trust and numbered accounts, lending or credit operations and rental of safe boxes;
   - To identify the Beneficial Owner’s identity;
   - To periodically re-verify the client’s identity or re-identify the Beneficial Owner.

**2.2 Weaknesses**

- **Access to information.** There is no register or information source that includes data on beneficial ownership. The company registry contains no information on beneficial ownership, which results in competent authorities having no access to such information. This also implies that the law does not require legal entities to update information on beneficial ownership since such information is not required in the company registry in the first place. Access to data, which is a pre-requisite for the implementation of beneficial ownership guidelines, requires digitized government, i.e. implementation of E-government and open data systems.

- **PEP.** While financial institutions have a legal obligation to identify Beneficial Ownership in certain circumstances, they are not required to establish appropriate Due Diligence to identify the Beneficial Owner as PEP.

**2.3 Implementation**

To date there is no clear evidence that data on beneficial ownership are being disclosed, and there is no effective implementation of law 106/2018.

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25 Interview with Bassil Fuleihan Institute of Finance, 9 September 2019.

26 Safa M. W. “The New Financial War: Lebanon and Its Anti-Money Laundering and Counter-Financing of Terrorism Regime, Regional and International”, 2013, School of Arts and Sciences, LAU.


The Central Bank of Lebanon, however, requires banks and financial institutions to classify “Politically Exposed Persons - PEPs (as defined by FATF)” as high-risk customers and to conduct enhanced due diligence on them according to article 9 of BdL Basic Circular 83. The same article requires banks and financial institutions to set up an adequate system to determine whether the customer or the beneficial owner is a Politically Exposed Person (PEPs).

2.4 Recommendations
- The council of ministers is required to specify the competent authority(ies) that can access beneficial ownership information in case information is not available to the public.
- The central bank is required to oblige banks to develop clear enhanced due diligence guidelines for their customers or beneficial owners of PEPs or their family members and close associates.
- Banks are required to conduct an identity verification process for transient clients and keep records of all documents related to completed operations or to closing accounts.
- The Lebanese government is required to adopt and implement effective E-government and open data systems.

3. Recovery of Stolen Assets
The Recovery of Stolen Assets is one of the fundamental chapters (Chapter 5) of The United Nations Convention against Corruption (UNCAC), and it refers to the recovery of the proceeds of corruption.

3.1 Legal and institutional framework
Lebanon does not have a single law on asset recovery; the recovery process is dispersed in multiple national laws (i.e. Civil Code, Penal Code, Illicit enrichment law, Laws on money laundering no.318 and no.44, among others). The fact that there is an absence of one national procedural law on asset recovery makes the process challenging and in many ways misleading. A foreign state can file a request for assistance, submitting it to the Ministry of Justice, which refers it to the Public Prosecution Authority, which decides whether to send the request to the competent authority or not. Upon receiving the response, the Public Prosecution Authority sends the request back to the Ministry of Justice. The latter communicates the decision to the demanding state through diplomatic channels.

More specifically, 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, which they can be listed as follows:

1- Request for information related to criminal money, property, proceeds and regarding bank accounts.
2- Request for assistance in investigative processes.
3- Request for the issuance of a resolution to freeze bank accounts.
4- Request to seize funds.

30 Ibid
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 corruption”.

It is worth noting that it is acceptable to provide assistance even if there is no conviction, and the request is answered regardless of the investigation stage of the case requiring assistance. It is enough to prove that the assets are the result of an anti-money laundering crime to start the mutual legal assistance\(^{31}\).

### 3.2 Weaknesses

- **A unified law on asset recovery.** A clear, unified law on asset recovery is still absent in Lebanon.

- **Specialized unit.** On 15 November 2013, on the basis of decision number 1/119, the Minister of Justice formed a group responsible for developing a guide for recovering assets resulting from corrupt activities\(^{32}\). This body is not operationally independent under the law. In fact, the unit was never created, and no work has been done. In the same vein, in October 2017, MP Sami Gemayel submitted a draft law that aimed to establish an independent asset recovery committee. This draft law is yet to be passed by Parliament. The draft law is a comprehensive document explaining the main technical terms used in the Asset Recovery process, the role of the unit and the parameters of its cooperation with other legal bodies (such as courts and public prosecutors) and different other stakeholders (i.e. civil society, entities abroad, etc.). This draft law also suggests the membership of the unit should include ministers and representatives of the Central Bank, the Association of Banks and civil society. The unit would enjoy a margin of discretionary powers allowing better forms of investigation and prosecutions in case of illicit asset detection. Also included are sections related to criminalization of those deliberately refraining from providing the unit with the help or evidence it requires to disclose illicit assets and, consequently, recover them. The law encourages the incentive-based approach for disclosure. The unit would have the right to grant the persons/entities providing the disclosure of looted funds a percentage up to 10% of the value of the total amount looted. H.E. Minister of Foreign Affairs Gebran Bassil, in his capacity as a Member of Parliament, submitted a draft law on “Looted Funds Recovery” as well.

### 3.3 Implementation

Lebanon was among the first countries that recovered assets belonging to Iraq and Tunisia.

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The two cases involving Lebanon that went public are the case of Zain el Abidin bin Ali, the former Tunisian president, with 28 million US$ in recovered assets\textsuperscript{33} and the Moammar Kaddafi’s case, in which recovery of the stolen assets was more complex.\textsuperscript{34}

The SIC is making remarkable efforts to keep international cooperation on track, as evidenced by the number of ML/TF cases that were investigated in the past few years (2017 and before) due to international cooperation as well as local interagency coordination, which resulted in rewarding outcomes. The commission actively participates in working groups and projects and continues its previous involvement in the FATF Middle East & Africa Regional Review Group, where reviewing the progress reports of jurisdictions brought within the ICGS process has also paid off. Such efforts have resulted in bringing several FIUs from MENAFATF member countries to full Egmont Group\textsuperscript{35} membership and in raising compliance levels to international standards.

In 2019, the Lebanese Ministry of Justice issued the “International Cooperation Guide for recovering funds derived from corruption”. This guide outlines the relevant authorities involved in the asset recovery process along with their roles and responsibilities.

Mutual Legal Assistance (MLA) requests are received through the appropriate judicial channels.

### 3.4 Recommendations

- Parliament should pass a law establishing a national asset recovery unit/team backed up by a well-defined legal framework to recover illicit assets on the national and international levels, or Parliament could add the responsibilities of the asset recovery unit to the National Anti-Corruption Commission.

**Target 16.5:** “Substantially reduce corruption and bribery in all their forms”

In Transparency International’s most recent Corruption Perception Index 2018, Lebanon scored 28/100 on a scale of 0 (highly corrupt) to 100 (very clean) and ranked 138 out of 180 countries.

According to the Global Corruption Barometer of 2019, 68% of the respondents in Lebanon thought that corruption had increased in the past year. Moreover, 87% of the respondents stated that the performance of the government was weak.

### 1. General Framework

#### 1.1 Legal and institutional framework

**Legal framework.** In line with UNCAC, Lebanese criminal law clearly defines and bans the following offences under the umbrella of corruption:

- Active bribery of domestic public officials and passive bribery of domestic public officials (Art. 351 - 356; art. 363)
- Embezzlement, misappropriation or other diversion of property by a public official; embezzlement of property in the private sector (art. 359-366; art. 670- 673; art. 695).
- Abuse of functions (Art. 371- 377)


\textsuperscript{35} The Egmont Group is a united body of 164 Financial Intelligence Units (FIUs). The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing (ML/TF). This is especially relevant as FIUs are uniquely positioned to cooperate and support national and international efforts to counter terrorist financing and are the trusted gateway for sharing financial information domestically and internationally in accordance with global Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) standards.
- Illicit enrichment (Law No.2490/2009)
- Bribery in the private sector (Art. 354)
- Laundering the proceeds of crime (Law No.44/2015 and Law No.318/2001)
- Concealment (Art. 219 -222; 260; 416; 549)
- Obstruction of justice (art. 417 – 419)

**Institutional framework.** The main national agencies that should be operating to promote anti-corruption culture and prosecute corruption cases are (i) the Audit Court, (ii) the judiciary (iii) law enforcement agencies, (iv) the general prosecution office (v) the Central Inspection body, (vi) the Disciplinary Board and (vii) the anti-corruption commission, once established. It is important to mention that the judiciary in Lebanon enjoys a high level of independence by law; however, this does not always apply in practice.36

(i) **The Court of Audit.** The Lebanese Court of Audit plays a major role in the fight against corruption. The Court of Audit is an administrative tribunal overseeing the management of public funds. The court executes prior and subsequent controls confirming the appropriate use of these funds. The Audit Court has judicial control allowing it to prosecute public officials if it detects any form of misuse of public funds.37

(ii) **The Judiciary**

The Judiciary’s independence is guaranteed by the Lebanese Constitution in both its preamble and article 20. This core principle is reaffirmed by many national laws and international conventions (i.e. UNCAC in chapter 2, preventive measures38; the Lebanese Parliament is currently reviewing a draft proposal aimed at strengthening the independence of the judiciary39). The independence of the judiciary is important for the enforcement of the sanctions against corruption mentioned in international conventions and national laws40.

(iii) **Law enforcement agencies**

**Article 65 of the Lebanese Constitution** states that the security forces are accountable to the executive authority. The Internal Security Forces (ISF) and General Security (GS) are the two law enforcement agencies in Lebanon. They both fall under the authority of the Ministry of Interior and Municipalities (MoIM). Their independence is ensured neither by law nor in practice41.

(iv) **The Public Prosecutor’s Office**

The prerogatives of the Public Prosecutor’s Office are the following42:
- Supervising preliminary investigations

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41 Schultz, J., Ibid.
42 Research Paper on the judiciary sector reforms, Legal Agenda, 2018. [https://www.legal-agenda.com/uploads/%D8%A9%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%D8%A9.pdf](https://www.legal-agenda.com/uploads/%D8%A9%20%D8%A7%D9%84%D8%B9%D8%A7%D9%85%D8%A9.pdf)
• Executing the public prosecution process
• Issuing research and investigation reports
• Monitoring and prosecuting the judicial police
• Overriding a refusal to undertake an authorized prosecution of public officers

(v) The Disciplinary Board
The prerogatives of the disciplinary board are limited to looking into violations in the behavior of the following individuals:

1. All categories and types of employees of public administrations, with the exception of the following categories, which are subject, by law, to the authority of disciplinary councils, especially in view of the nature of their duties:
   • Chairman and members of the civil service and central inspection boards
   • B - Judges
   • The army, internal security forces, public security, customs officers, and civilian employees of the army.

2. All categories and types of employees of public institutions of the state or municipalities.

(vi) The Central Inspection Body
The responsibilities of the CIB are the following, among others:

• Monitoring the performance of public administrations and ensuring their compliance with rules and regulations.
• Working on improving administrative methods and action.
• Working as a consultative body for public authorities.
• Handling bidding processes that are related to public civil administrative departments

(vii) The Anti-Corruption Commission
This commission is yet to be established. However, once it is functioning, it will prosecute natural/legal persons engaged in corruption offenses, and it will have the right to impose travel bans and lift banking secrecy when corruption is detected.

1.2 Weaknesses

• Incomplete list of criminalized offences. Lebanon has an almost complete anti-corruption legal framework. However, there are some gaps that need to be filled to fully comply with chapter III of the UNCAC listing of offenses that fall under the umbrella of corruption:
   - Lebanese criminal law does not define and criminalize trading in influence, defined in article 18 of the UNCAC.

43 Decree No. 152/83 “Establishing the Disciplinary Board”, art.2 and 3.
https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf
- Laundering the proceeds of crime is defined in Lebanese law No.318, but this law provides a list of predicate offences narrower than the UNCAC’s. 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 of money laundering executed outside Lebanon are not addressed. Finally, the law does not include a provision that prevents a self-laundering conviction.  
- The LPC criminalizes Concealment, but it fails to criminalize the continued retention of a property as mentioned in the list of UNCAC offences.

- **Anti-corruption Commission.**
  - The Lebanese Parliament is expected to vote in favor of the creation of a National Anti-Corruption Commission after it was approved by both Parliament’s Finance and Budget Committee and Administration and Justice Committee.
  - The Lebanese parliament endorsed the law that establishes the National Anti-Corruption Commission on 6 July 2019. However, the president of the republic, exercising his constitutional right, returned the law to the parliament for further review, accompanying it with a list of suggested amendments to the law as voted by Parliament.

- **Tenure of judges.** According to the law, judges in office can only be transferred or removed in accordance with the law. However, the same law grants the High Judicial Council the prerogative to remove a judge from office without resorting to any disciplinary proceedings, and judges subsequently cannot appeal such decisions. The lack of protection for judges against such arbitrary decisions raises serious issues regarding their independence and day-to-day work.

- **Judges’ remuneration.** The remuneration of judges has been amended four times (1993, 1998, 2011 and 2018). The payroll policies have always been subject to criticism; the remuneration of judges is considered insufficient and provokes the dissatisfaction of many judges.

### 1.3 Implementation

- **Audit Court**

  **Independence of the Audit Court.** Despite the reasonable degree of independence and immunity provided to the Audit Court by laws and regulations, political interference in the public sector is deeply rooted in the Lebanese system. On many occasions, the cabinet has approved public...
works contracts without seeking the approval of the court\textsuperscript{55}. This shows that the independence of the Audit Court does not depend only on laws and regulations; it depends heavily on the willingness of political leaders to recognize its independence and provide it with the support needed.

**Resources and capacities of the Audit Court.** The Audit Court experiences many difficulties and obstacles, including lack of staff and insufficient budget. Governance rules are poor, and there are frequent management changes. In 2011, the Lebanese government and the World Bank launched a joint project to improve and strengthen the Audit Court, which resulted in a statement that the assurance and accountability mechanisms are weak\textsuperscript{56}.

**Providing effective audits.** The Audit Court has been submitting annual reports based on incomplete data and documents provided by the government. There is discontinuity in the Lebanese government, which hinders the stability of public administrations. International pressures seem to be the driving force that motivates the Lebanese government to execute its duties (CEDRE and 2019 budget)\textsuperscript{57}.

- **Judiciary**

  **Independence.** The Lebanese judiciary enjoys quasi-independence as it does not enjoy financial independence and its budgets are included in the budget of the Ministry of Justice. It is important to strengthen judiciary independence by providing the Supreme Judiciary Council with the right to appoint qualified judges without referring to the Executive Branch\textsuperscript{58}.

  Political interference is clear in the Lebanese Judiciary as political leaders influence judicial appointments\textsuperscript{59}.

  Consequently, the Judiciary in Lebanon cannot be considered as fully independent. Court processes and decisions are stigmatized by corruption and influence from political parties.

- **Integrity.** Lebanon stated in the Launch Event of the Global Judicial Integrity Network in Vienna in April 2018 that “strengthening judicial integrity is at the heart of Lebanon’s efforts” and claimed that several recent examples of disciplinary proceedings were filed against judges\textsuperscript{60}.

- **Public.** According to the Access to Information law, every person has the right to access information and documents held by judicial authorities, except for opinions issued by the state council in the context of a judicial review, which can be accessed by the concerned parties only\textsuperscript{61}.

  In practice, court decisions are not published on the website of the Ministry of Justice and judicial courts.

- **Law enforcement agencies**

  **Independence.** Lebanese policing forces do not benefit from any kind of independence. As far as investigation of corruption cases is concerned, the law enforcement agencies are not fully

\textsuperscript{55} “Control Mechanisms within the Executive Branch”, Chapter 1. http://almashriq.hiof.no/ddc/projects/pspa/PSAccount/PSAccount-1.html


\textsuperscript{57} Melki, N., “Public Finances reach Court of Audit, the beginning of the end?”, the Executive, 2019. https://www.executive-magazine.com/economics-policy/public-finances-reach-court-of-audit


\textsuperscript{61} Access to Information Law No.28/2017
independent and, in practice, need a political decision to investigate any corruption case in Lebanon.

**Financial resources.** In practice, the financing of the law enforcement agencies is not sufficient for them to effectively operate and fulfil their duties\(^\text{62}\).

- **The Public Prosecutor’s Office**
  The Public Prosecutor’s Office constantly has cases of corruption in process (e.g. religious interference, saving the interests of corrupt people and others)\(^\text{63}\).

- **The Central Inspection Body**
  The Central Inspection Body lacks effectiveness; it is subject to excessive political interference.

**1.4 Recommendations**
- There is an urgent need for reforms in the judiciary in terms of both promoting good governance and guaranteeing to all judiciary bodies their intact independence.
- Criminalize political interference in judicial matters.
- Adopt in national laws all the corruption offences stated in the UNCAC.

**2. Private Sector Corruption**
Corruption is rampant at all levels in Lebanon, even in the private sector\(^\text{64}\). For this reason, tackling corruption is becoming more of a priority on the Lebanese legislative and political scene.

**2.1 Legal and institutional framework**
MP Gorges Okeis presented a draft law on fighting corruption in the private sector to the Lebanese Parliament on 10 October 2019.
Regarding the prohibition of collusion between companies during public procurement, 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 punished by imprisonment and a fine. Collusion in procurement in the private sector is allowed\(^\text{65}\).
There are several codes of ethics and corporate governance, including, the Group of Lebanese Business Owners’ “Code of Business Ethics”\(^\text{66}\) and the Lebanese Code of Corporate Governance written by the Lebanese Transparency Association (LTA\(^\text{67}\)). However, adoption of these codes is not mandatory, and it is up to individual entities to abide by them.

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\(^{66}\) ‘Lebanon Investment and Business Profile’, Ed.2017, p.46.

2.2 Weaknesses

Corruption Fellowship Risk. Restricting anti-corruption laws to the public sector without acknowledging that the private sector can be a major accomplice in the corrupt activities that occur\textsuperscript{68}.

2.3 Implementation

- **Anti-collusion enforcement.** Lebanon does not have a particular body dedicated to investigating and sanctioning companies involved in collusive practices. Data provided by the Institute of Finance show that 33% of respondents reported being pressured to deal with specific suppliers (33%), while 12% witnessed that a procurement contract was awarded to a supplier other than the one selected by the evaluation committee.

- **International Accounting Standards.** The Ministry of Finance (MoF) of Lebanon is active in adopting the International Accounting Standards, in cooperation with the Lebanese Association of Certified Public Accountants (LACPA). An action plan to implement membership obligations will be elaborated by the LACPA to include the activities planned for 2017-2018 as a means to enhance the implementation of the International Accounting Standards.

2.4 Recommendations

- The Lebanese Parliament is required to amend the procurement law, prohibit collusion in public tenders and include provisions tackling the risks of collaboration/collusion between the public and private sectors.

3. Lobbying Transparency

The definition of Lobbying according to the OECD is “Influencing policy-makers is a core part of a democratic system. Lobbyists and advocacy groups bring valuable information to the policy debate. In practice, however, powerful groups can exert influence to further their particular interests, often at the expense of the public interest”.

3.1 Legal and institutional framework

There is no legislation or policy regarding lobbying in Lebanon. In December 2001, a code of conduct was adopted, but it is restricted to public officials.

3.2 Weaknesses

There is no law or policy that sets a framework for lobbyists and lobbying activities in Lebanon. Due to the lack of regulation of lobbying activities, there is no available information in a lobbying register nor information regarding key aspects of lobbying.

3.3 Implementation

Legislation is absent hence its implementation.

3.4 Recommendations

- The Lebanese parliament is required to establish a legal framework for lobbying.

\textsuperscript{68} Interview with Me. Karim Daher, 9 September, 2019.
4. Party and Election Campaign Finance Transparency
According to 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 at 30 while practice was scored at 18.

4.1 Legal and institutional framework
Political parties are subject to the Ottoman Law of 1909 on Associations. The law does not include regulations on financing political parties. However, the financing of electoral candidates is regulated in Electoral Law No.44/2017 (EL 2017). It deals with the financing and expenditures of candidates on any of the electoral lists for the duration of the electoral campaign.

According to EL 2017, the Supervisory Commission for Elections is responsible for monitoring the timely receipt of financial statements of campaigns within one month following the date of the elections. The same law mentions the allowed sources of income for candidates during campaigns. These sources include personal funds (including those of their families) and contributions by Lebanese natural or legal persons. Foreign financial contributions as well as funds from the Lebanese government are prohibited; in-kind contributions (i.e. goods and services) are also perceived as contributions except for the services provided by volunteers. Candidates are prohibited from receiving more funds than they spend, but nothing seems to stop them from doing so, with the aim of realizing a potential profit.

According to the EL, candidates are required to submit monthly financial statements during the electoral period and the final report one month after the elections. The Electoral law also lists allowed expenses. 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. The law also bans some types of expenditures, such as giving money to charities, social and cultural organizations and sports clubs during the campaign period.

The candidates are not required to submit any financial report before the elections; however, they are required to submit monthly financial reports from the date of their nomination announcement until Election Day. After the elections, candidates are also required to submit a final report stating all financial transactions that took place during the whole election period. Additionally, the EL 2017 stipulates 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, which was opened at a Lebanese bank especially with the purpose of receiving and hosting electoral funds. It is the auditor’s responsibility to regularly submit to the Committee a report on the financial status of the campaign. These reports are not made public.

4.2 Weaknesses
Financing of political parties. There is no legal framework regulating the financing of political parties in Lebanon.

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69 Money, Politics and Transparency https://data.moneypoliticstransparency.org/
Accounts disclosure. Neither political parties nor individual candidates running for elected office are required to disclose annual accounts with itemized income, expenditures and individual donors.

4.3 Implementation

No sanction of violation. During Lebanon’s former elections in 2009, 100 candidates did not submit their financial reports after the elections, and they, therefore, violated art. 61 of the previous electoral law. At that time, the Supervisory Commission on Electoral Campaigns submitted the names of the noncomplying candidates to the Public Prosecutor’s Office; however, no sanctions were subsequently applied against such evident violations of the law.

4.4 Recommendations

- Political parties and individual candidates are not required by law to disclose financial statements for their campaigns detailing income and expenditures, as well as individual donors to their campaign finances. Additionally, they are not required to disclose annual accounts with itemized income and expenditures and individual donors. There is a need to add transparency and accountability standards to the Law regulating political parties’ financing.

- Annual accounts of political parties are not subject to independent scrutiny in Lebanon. In the past four years there have not been any sanctions for violating political financing rules or non-compliance with disclosure requirements.

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

1. Transparency and Integrity in Public Administration

1.1 Legal and institutional framework

Gifts and benefits. Lebanon adopted a legislative decree and a code of conduct to deal with issues that can affect public officials’ integrity, such as gifts, benefits and conflicts of interest. Legislative Decree No. 112 issued in 1959 on the organization of Public Officials’ duties includes rules and regulations related to the definition and identification of public officials and prohibits some acts during public office. In particular, officials should never seek or accept an offer of direct or indirect gifts, gratuities or grants of any kind.

Revolving door. Legislative decree No. 112 also indirectly addresses the concept of the revolving door, i.e. the movement of individuals between public office and the private sector, while working in the same sector or on the same issue. It states 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”. The decree also provides for a mandatory cooling-off period of 5 years – i.e. a minimum time interval restricting former officials from accepting employment in the private sector that relates to their former position.
The Central Inspection Board is the authority responsible for providing advice and overseeing ‘revolving door’ regulations.

**Disclosure of assets.** [Illicit Enrichment Law No.154/99](#) requires high-level public officials to declare their income and assets at the beginning and at the end of their time in office.

The second chapter of the Illicit Enrichment Law regulates the asset disclosure of public officials. This law requires high-level officials to submit at the commencement of their work a signed statement indicating the movable and immovable property owned by them, their spouse and dependent children. They shall, within a period of three months from the date of termination of their services, issue a second statement indicating what they own (movable and immovable assets) and justify the differences between the first and second declarations.

These asset disclosure requirements cover officials of all branches of government: Judges, Public Officials (3rd level), Prime Minister, Ministers, Members of 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 Bank (Paragraph 2 of art.1 of the Illicit Enrichment Law).

Public officials who fail to comply with the disclosure requirements shall be deemed resigned. Additionally, anyone who submits a false statement is subject to the penalty provided for in art. 462 of the Lebanese Penal Code, namely imprisonment for one month to one year and a fine of at least LBP 100,000.

### 1.2 Weaknesses

- **Conflicts of interest.** There is a draft law on conflict of interests and E-government; however, the parliament has not yet passed it. In 2019 the Lebanese Transparency Association, amid national unease, issued a press release requesting the Lebanese Parliament to pass the remaining anti-corruption laws.

- **Sanction of revolving door.** There are no dissuasive sanctions for individuals and companies that do not comply with the law or policy controlling the ‘revolving door’.

- **No public disclosure of assets.** The declarations of income have a confidential nature, and each employee assigned to receive or keep them has to maintain this confidentiality.

### 1.3 Implementation

- **Revolving door.** The revolving door provisions are not implemented in practice.

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

### 1.4 Recommendations

- Parliament is requested to pass the conflict of interest law, revisit and modernize the revolving door regulations, and have them well implemented in practice.

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• There should be recognition of the importance of urgently establishing the National Anti-Corruption Commission in order to have better control on the asset disclosure front of high-level public officials while they are in office (As mentioned in draft law No. 2490/2009, which updates the Illicit Enrichment Law)

2. Fiscal Transparency

According to the Open Budget Survey of 2017\(^73\) conducted by the International Budget Partnership, Lebanon scored 3/100 on Transparency (meaning the availability of budget documents to the public), 0/100 on Public participation (meaning the degree to which the public is provided with the opportunity to participate and engage in the budget cycle by the executive, the legislature and the supreme audit institution) and 11/100 on Budget oversight (meaning the degree to which the legislature, the supreme audit institution and independent fiscal entities play a role in the budget process and provide effective oversight in its effective implementation). According to Institut des Finances Basil Fuleihan, Lebanon lacks the culture of immediate disclosure; on the other hand, current laws do not ban the publication of documents related to the budget.

2.1 Legal and institutional framework

The budget is regulated by the Constitution and Public Accounting Law No. 14969/63. 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 Performance-based Budgeting that has yet to be adopted by the government and the Ministry of Finance. Lebanon is currently part of the following international measures related to fiscal transparency\(^74\):

1) Global standard on Automatic Exchange of Information.

2) The Multilateral Competent Authority Agreement (MCAA), which provides a standardized and efficient mechanism to facilitate the automatic exchange of information.

3) The domestic tax Base Erosion and Profit Shifting (BEPS), which includes 15 actions to tackle tax evasion, improve the coherence of international tax rules and ensure a more transparent tax environment.

4) The Mandatory Disclosure Rules (MDR) of the OECD, all aimed at reducing the possibility of tax evasion.

Law no. 55 dated October 27, 2016 authorized the Lebanese Minister of Finance to sign the aforementioned treaties, which Lebanon became part of starting May 12, 2017\(^75\). This means Lebanon is subject to the content of these treaties and is required to comply with their provisions and translate them into national laws.

2.2 Weaknesses

• Weak fiscal transparency. Lebanon’s fiscal transparency mechanisms can be greatly improved by taking certain measures that would accurately reflect the actual revenues and expenditures of the

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\(^74\) Basil Fuleihan Institute, Interview, 19 September, 2019.

\(^75\) Interview with Me. Karim Daher, 9 September, 2019.
government. Most important would be making the supreme audit institution reports publicly available\textsuperscript{76}.

### 2.3 Implementation

- **Publication of key documents.** According to the International Budget Partnership (IBP), Lebanon does not produce the following key budget-related documents: (i) pre-budget statements (nonexistent), (ii) enacted budget (iii) citizen budget and (iv) mid-year review.

- **Exchange of tax information.** The first exchange of tax information filed by Lebanon was on September 30, 2018\textsuperscript{77}, when the lifting of banking secrecy was applied to non-residents. These treaties are of high importance because they are dependent on the exchange of information between several jurisdictions meaning that a mutual assistance vis-à-vis tax evasion is required. Therefore, the non-compliance of one jurisdiction with the treaties might pose a negative risk to the tax evasion control of other jurisdictions.

- **Steps taken by the government.** The Ministry of Finance (MoF) is taking a number of firm steps towards adopting fiscal transparency procedures. The MoF has made considerable efforts towards e-taxation in order to make taxation services accessible to the public (i.e. on the Taxation and Cadasre fronts). Land registry is among the most complicated and challenging matters; it is an area prone to corruption and mismanagement. These areas are being automated, all with national resources and zero international funds. Moreover, the MoF and the institute of finance have for 2 years now published the citizens budget for 2018 and 19. There has been a series of publications to facilitate citizens’ understanding of taxes and monetary entrance actions (No. 18). Access to Information (Atol) is facilitating and putting in layman’s language complicated, sophisticated and highly technical material for the benefit of better interaction between citizens and the state. Citizen’s budgets are not the only initiatives that the ministry is committed to implementing in order to realize access to information and transparency with regards to public money and financial management. All of these are based on a national effort\textsuperscript{78}.

- **Raising awareness.** Training on financial crimes and raising awareness on this topic are increasing; however, current laws do not tackle them. Current work is limited to the capacity building aspect\textsuperscript{79}.


\textsuperscript{77} Art.3 of BdL Basic Circular No.139 attaching the copy of Basic Decision No. 12625 of 21 July 2017 relating to the common reporting standard.

\textsuperscript{78} Basil Fuleihan Institute, Interview, 19 September, 2019.

\textsuperscript{79} Basil Fuleihan Institute, Interview, 19 September, 2019.
2.4 Recommendations

- The Lebanese public institutions are required to publish all the documents required by the International Budget Partnership to guarantee well-established fiscal transparency mechanisms.

3. Public Procurement

The Lebanese government committed to structural reforms in order to receive the promised funds from CEDRE. Article 4 of the government declaration states: “Lebanese government ministerial statement committed to the modernization of the public procurement Law and the preparation of standard bidding documents to enhance transparency”. Amending Public Procurement (PP) is one key public financial management reform for the government of Lebanon (Benefits: better financial government, competitiveness, value for money, reducing spending fragmentation and duplication, greater efficiency and cost saving, managing fiduciary risk and budget uncertainties). It is important to mention that different actors will join forces, and it is an opportunity for effective reforms. It is also important to mention that under the commitments of CEDRE, Lebanon will be conducting reform projects on a Public Private Partnership (PPP) basis. Therefore, in order to prevent vulnerability and the risk of corruption, PPP requires strong procurement laws. Moreover, PPP is an area that encourages sustainability. The High Council for Privatization and Partnership is the entity authorized to approve, launch and manage projects, and it has acted as the liaison between the private sector and government bodies ever since its establishment in the year 2000. Studies take place assessing the effect of the PPP projects (if conducted) on the government budget, and the studies need to show that profits will be generated to consider implementing projects on a PPP basis. Such decisions on the potential of a project to be carried out on a PPP basis are made by a minister or by the HCP on the basis of the Prime Minister’s suggestions.

3.1 Legal and Institutional Framework

Threshold. The Public Accounting law defines a threshold of 5 million LBP as a maximum price for single-sourced purchases of goods, services and public works.

Publication. In addition, the Access to Information law requires that information on any public procurement above 5 million LBP be published. The documents that should be published when the procurement exceeds 5 million LBP are: the value of the exchange process, means of payment, purpose, beneficiary, and the legal basis of such a process (for example tenders, mutual assets, implementation of a court ruling).

The Public Procurement Law of 1959 states that the annual plan of the procurement administration shall be published in 5 national newspapers. This annual plan is reviewed by each public institution before 15 March. The procurement administration, after receiving the feedback and amendments of the other public institutions, publishes the annual plan a second time before 15 April. Information on procurement is published on the websites of public administration bodies.

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80 Basil Fuleihan Institute, Interview, 19 September, 2019.
82 Basil Fuleihan Institute, Interview, 19 September, 2019.
83 Law No.14969/63, public accounting.
Council for Development and Reconstruction (CDR) publishes reports on projects being implemented and procurements awarded.

**Policies for bidders’ complaints.** Decree Law No. 10434 of the State Consultative Council, dated 1975, provides that a party harmed can file a complaint and request a formal review before the state consultative council either to demand the nullification of an administrative decision related to a public bid or to claim compensation.

**The new procurement law.** The Higher Council for Privatization and Partnership states that the Lebanese parliament passed PPP law No. 48/2017, which regulates the partnership between the public and private sectors for the delivery of goods and services to the public. The Lebanese Government’s stated opinion is that the procurement law is one of the best laws to be developed during the past 10 years due to its evidence-based approach, participatory consultative process, benchmarking with international standards and experiences and the production of the legal test.

**3.2 Weaknesses**

- **Weaknesses in the laws.** The laws are obsolete (1958 and 1963) as they are not designed in a way that allows a policy approach centered on governance and involvement of citizens\(^ {84}\). The laws that are opaque and slightly participatory.

- **Lack of continuity in the government.** The HCPP has worked on three sectors throughout the years, namely power (i), telecom (ii) and civil aviation (iii). The HCP worked on reconstructing the power sector since the law stipulates that the sector should be unbundled. That is, rather than having one company, the power sector should be divided into generation, transmission and distribution. The HCP also worked on reconstructing the telecommunications sector. Liban Telecom and its board of directors should have been established; however, many political complications intervened and the project stopped. Political disagreements and the different work visions of HCPs former secretary generals have hindered the effective and sustainable implementation of studies and projects\(^ {85}\).

- **Single-sourcing.** Insitut des Finances Basil Fuleihan states that the old public accounting law tackles single-sourcing to a certain extent, and it mentions the cases where such sourcing is acceptable. The law mentions that single-sourcing is allowed when the council of ministers approves it.

**3.3 Implementation**

**Consultations with other stakeholders.** In 2018 the Insitut des Finances, organized the first national consultative forum on public procurement, which was attended by more than 350 participants from the private and public sectors in addition to civil society organizations. They produced recommendations that were sent to the ministry of finance, which had a political commitment to

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\(^{84}\) Basil Fuleihan Institute, Interview, 19 September, 2019.

\(^{85}\) Interview with the HCP, 9 September, 2019.
this subject, and the minister directly took action by creating an expert committee composed of economists, policy experts, etc. The mix of people that designed the law provided added value to its quality. In addition there were international consultations with OECD and EU experts to work on a new law and to improve the overall procurement system. Institut des Finances was mandated to follow up on the recommendations of the committee. On the 6th of September 2019, the minister of finance presented a project law to the council of ministers on public procurement.\footnote{86 Basil Fuleihan Institute, Interview, 19 September, 2019.}

**Transparency in PPP contracts.** The HCPP joined forces with the LTA and other CSOs. Each project we work on starts with a feasibility study and is approved by the council of ministers so that the HCPP can work on a PP basis. It becomes part of the working team and supervises its work and that of the steering committee on tendering projects. The mandate of the Fairness and Audit committee is yet to be finalized; then it will be possible to set the guidelines and parameters of its work within the scope of the implementation of PPP projects. This committee will guarantee Lebanese citizens that fairness is respected and all bidders are given the same information while at the same time the law is respected and the tender documents are abided by. This was done in 2018.\footnote{87 The HCP interview, 9 September 2019}

**Conflict of interest in PPP.** This is one of the guidelines that the HCP is keen to work on. The HCP solicited the technical assistance of The European Bank for Reconstruction and Development (EBRD), through the assignment of a consultant in 2019, to identify the priorities about which the HCPP needs to issue guidelines, especially regarding issues where the law is silent.\footnote{88 The HCP Interview, 9 September, 2019}

**Publication of procurement information.** Some public administrations publish their procurement contracts online whereas others publish them in national journals.

### 3.4 Recommendations

- The Lebanese Parliament is required revisit the public procurement law and aim to achieve the 4 pillars of the Methodology of Assessment of Procurement Systems (MAPS), which can be listed as follows:\footnote{89 Basil Fuleihan Institute, Interview, 19 September, 2019.}
  
  a. The legislative, regulatory and policy framework
  b. Institutional framework and management capacities
  c. Procurement operation and market practices
  d. Accountability, integrity and transparency

- The Lebanese parliament is required to modernize the laws related to public procurement.
- Public institutions need for separation between the budget and procurement processes. There is also a need for financial integration, which plays a major role in promoting better governance, efficient capital allocation and higher growth on investment.
- In public procurement contracts award decisions need to be made by an independent fiscal body at the relevant ministry, which will make final decisions rather than the minister him/herself. This is to guarantee that money is not being personally exploited by the minister or any other public official at the public institution.\footnote{90 Interview with Me. Karim Daher, 9 September, 2019.}
- Single-source bidding needs to be tackled in the new public accounting law that was raised to the council of ministers.
- Develop a reference E-platform where data on public procurement is published.

4. Whistle-blowing and reporting mechanisms

4.1 Legal and institutional framework

The Whistleblower Protection draft law was submitted to the Lebanese parliament in 2010, and after review by the parliamentary subcommittee established in late 2013 by MP Ghassan Moukheiber, the draft law was approved by the Administration and Justice parliamentary committee in March 2015. The Lebanese Parliament passed Whistleblowing Protection Law No. 83, dated October 10, 2018. This law aims to encourage the protected disclosure of information through keeping the identity of the whistleblower secret. In some cases, when a whistleblower discloses information of great value to the public authorities, the law provides a reward. The reward is not guaranteed and is subject to the discretionary powers of the National Anti-Corruption Commission (NACC).

4.2 Weaknesses

- Co-dependency of laws. The full and effective implementation of the whistleblowing protection law is dependent on the establishment of the National Anti-Corruption Commission.
- Restrictiveness of the law. The whistleblowing protection law does not tackle the private sector and does not have a relevant code of conduct to support its implementation\(^91\).

4.3 Implementation

The whistleblowing protection law has not yet been effectively implemented as it is dependent on the establishment of the National Anti-Corruption Commission (NACC), which itself has not yet been achieved.

4.4 Recommendations

- Add the private sector to the law as corruption does not occur only in the public sector.
- Develop implementation decrees for the whistleblowing protection law.
- Develop a code of conduct that explains the main guidelines of the law.
- Pass the law establishing the National Anti-Corruption Commission (NACC)

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

1. Protection of Fundamental Freedoms

According to Freedom House’s ‘Freedom in the World Rating’, Lebanon received the aggregate score of almost 50/100\(^92\).

\(^91\) According to Me. Daher,
\(^92\) ‘Freedom in the world’, Freedom House, 2019, p.16.

In the World Press Freedom Index issued by Reporters Without Borders in 2019, Lebanon was ranked 101/180 (1=Most Free, 180=Least Free) and received the score of 31.15/10093.

1.1 Legal and institutional framework
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’.

Journalists’ Freedom of expression. The laws currently regulating Lebanese media are the 1962 Press Law and the 1994 Audio-visual Media Law. Both of these laws were passed long before the digital revolution and are, as such, outdated.
In December 2016, a Lebanese parliamentary committee finalized a major media bill with over 120 amendments. This bill is supposed to fill in the blanks left by the current legal framework. However, the new bill is yet to be approved by Parliament94.
The ‘scope of the law’ includes repressive measures outlined in the penal code. For instance, article 384 provides for 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’.

1.2 Weaknesses
Outdated law. The laws regulating the Lebanese media date back to 1962 and 1994. Both of these laws precede the digital revolution and are, as such, outdated.

1.3 Implementation
• Charges against freedom of expression. Some journalists, media presenters and other individuals face arrest, short detentions and fines if they criticize the work of the government, the military institution, foreign politicians or any other powerful entities. Legal suits are filed against them, and they can be intimidated or even become victims of violent acts95.

• Linked to Judiciary independence. The Lebanese Judiciary is not independent96. Court proceedings and judicial decisions are affected by corruption and the strong influence of political parties, which can greatly affect the fairness of legal suits filed against journalists and those who have expressed their opinions on social media platforms or any other information platform.

1.4 Recommendations
• The Press Law and the Audio-Visual Media Law need to be amended as they are obsolete.

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2. Access to Information

2.1 Legal and institutional framework

**Atol law.** The Lebanese government passed Access to Information Law No.28 on January 19, 2017. It seeks to enhance transparency and strengthen the relationship of trust between the public administration and Lebanese citizens, which is also linked to the fight against corruption. It is important to mention that the law became effective immediately on its publication date in the official gazette.

**Exemptions.** The right of access to information applies to all materials held by or on behalf of public authorities, but there are exceptions for certain documents in relation to\(^97\):
- Secrets of national defense, national security and public security.
- The state’s secret foreign relations.
- Financial and economic interests of the state and the safety of the national currency.
- Individuals’ privacy, mental and physical health.
- Secrets protected by the law, such as professional and trade secrets.

**Timeline.** The ATI law provides for a timeline of 15 days for responding to a request, starting from the day of the submission of the request, and with the possibility of being extended once for an additional 15-day period.

**Automatic publication.** The ATI law lists the information that has to be automatically released without pre-approval.
- All laws and decrees of different types have to be published in the public Gazette.
- 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, they have to be published in the Official Gazette.
- All operations in 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 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.
- Annual reports shall also be published. In public administrations, with respect to 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.

All the documents previously mentioned should be published on the administration's official website.

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\(^97\) Law No.28/2017
2.2 Weaknesses

- **Exemptions.** The exemptions under the Access to Information (ATI) law are absolute. As a consequence, there is no harm test applied to the exceptions, which would allow disclosure to be refused only when it poses a risk of actual harm to a protected interest. Similarly, no public interest test is applied either allowing for overriding in exceptional cases when it is in the overall public interest.

- **Oversight body.** To date, there is no independent oversight body responsible for receiving external appeals from requestors. The ATI law indicates that the national anti-corruption commission is responsible for receiving complaints and acts as an intermediary between the complainant and the concerned court. However, this commission is yet to be established.

2.3 Implementation

Applicants requesting access to information have faced many different challenges since the issuance of the law on February 2, 2017, such as, for example:

- Most State agencies and authorities have not published on their websites the documents and statements they are mandated to publish by the law;
- No officer has been assigned to the position of receiving and following up on requests;
- No response has been received to a number of written requests addressed to these authorities, allegedly because the anticorruption national authority has not been established yet, or because of the non-issuance of implementation decrees, despite the fact that the law entered into force as soon as it was passed and published.

However, some municipalities have responded to some applicants. It should be noted here that the Ministry of Justice submitted to the office of the Prime Minister an implementation decree proposal for this law in September 2017, but the proposal has not been included yet in the Council of Ministers agenda.

2.4 Recommendations

- The Lebanese Parliament and the Government the Access to Information law and implement it properly.
- The Lebanese Parliament is required to pass the law on the establishment of the national anti-corruption commission (NACC).

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1 According to Recommendation 10 of the FATF, 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.