



Beirut, September 17, 2021

**Statement issued by
The Lebanese Transparency Association - No Corruption on
The Constitutional Council Decision No. 5/2021:
Rejection of the appeal filed against the Public Procurement Law**

Within the framework of the Lebanese Transparency Association – No Corruption on monitoring the adoption of the new Public Procurement Law (244/2021) and its implementation, and after an appeal was submitted to the Constitutional Council regarding the conformity of Articles 72, 78, 88, 89 and 91 of the new law in relation to the training of public officials involved in public procurement procedures, as well as the mechanism for appointing the head and members of the Public Procurement Authority and members of the Objections Committee, with the provisions of the Lebanese Constitution.

After examining the content of Constitutional Council Decision No. 5/2021 in this regard, LTA commends the decision of the Council to reject the appeal, thus reinforcing the concept of the rule of law and conforming to the nature of the parliamentary system in Lebanon which does not allow absolute authority in the hands of any entity or authority. Quite the opposite, authority in the parliamentary system must be subject to limitations through standards and controls that respect the general constitutional principles that recognize and ensure good governance in line with best practices from around the world, particularly in parliamentary systems.

LTA deems the decision of the Constitutional Council as a first step that heralds a new era in the field of legislation in Lebanon in terms of enacting effective legislation that not only depend on buzzing titles, but on content that is consistent with the nature of democratic regimes that require cooperation and a balance of powers to ensure that the authority does not sway according to the whims of those in power. This decision has stopped the attempt to empty the law of its substance by tampering with its essence in terms of establishing an independent Public Procurement Authority, similar to countries that are characterized by having exemplary public procurement systems.

LTA, while reiterating the importance of this decision, also stresses the significance of kicking off the implementation of the procedures within the new Public Procurement Law (244/2021) as is, within the one-year period specified in its provisions for the law to enter into force; in response to the demands of the Lebanese people, and the global community, in terms of reforming public administration and combating corruption, especially that this law can play a major role in paving the way to restoring the confidence of the Lebanese and global communities in the Lebanese government and its agencies in order to enhance social stability and allow an opportunity for economic recovery.

In conclusion, LTA considers that after resolving the controversy over the constitutionality of some provisions of the new law, the time has come to strengthen the guarantees contained in this law through:

- Institutionalizing the role of civil society organizations in monitoring procurement procedures by granting these organizations the necessary legal status to participate in procurement procedures as observers whose work is characterized by transparency;
- Creating the necessary legal framework for the Public Procurement Authority to collect all information related to the Beneficial Owners of companies contracted by the government and its agencies. This information must be available through a Public Register that allows the Lebanese people to identify the real and actual beneficiaries of public contracts, in order to bolster the fight against all forms of corruption in the public sector. In addition to enhancing the ability of the Public Procurement Authority to formulate the necessary policies to enhance competition in order to achieve value-for-money in public procurement.
- Enhancing transparency within procurement procedures in line with the Right to Access Information constitutional nature and the international obligations of the Lebanese government, especially the International Covenant on Civil and Political Rights, and replacing the absolute secrecy of some procurement information with relative secrecy through the application of the Harm vs. Public Interest Test, which requires the publication of all kinds of information if the public interest so requires.