

Beirut, July 18, 2022

## **"No Corruption" calls for the implementation of the constitution and the international obligations of the Lebanese state within the investigation with the Director General of the "Tenders' Administration"**

Within the framework of monitoring public procurement reform in Lebanon by the Lebanese Transparency Association - No Corruption (Transparency International's National Chapter), and in light of summoning of Dr. Jean Ellieh, the Director General of the "Tenders' Administration" for investigation in relation with his press conference regarding the tender of the duty free at Rafic Hariri International Airport decision by the State Consultative Council;

LTA calls on the judicial authority to apply the Lebanese constitution and the international obligations of the Lebanese state related to the Right to Freedom of Opinion and Expression and the Right to Access Information within the investigation with the Director General of the "Tenders Administration".

A year after the adoption of the Public Procurement Law (No. 244/2021), and days before its entry into force, which will transform the "Tenders Administration" into the "Public Procurement Authority" (PPA) entrusted with ensuring the proper implementation of the new law, and in light of the failure of the Lebanese government to achieve the other two main pillars of the Law embodied by the establishment of a central electronic platform for procurement procedures and appointing the "Objections Committee",

LTA considers that this investigation might be exploited to obstruct the path of public procurement reform by creating a vacuum in the PPA before it is formed, since a public employee the enjoys immunity has been summoned – with LTA's reservation that public employees should not enjoy immunity – to a criminal investigation, for which the punishment may be the imprisonment for a maximum of one year in accordance with Article 386 of the Lebanese Penal Law, which violates the provisions of the Lebanese constitution and the international obligations of the Lebanese state.

In light of the above, LTA reaffirms:

**First:** The Right of all Lebanese to Freedom of Opinion and Expression, a fundamental human right, guaranteed by the Lebanese constitution in its preamble and Article 13, in addition to the Universal Declaration of Human Rights (UDHR) which the Constitutional Council's jurisprudence considers an integral part of the Lebanese constitution, and the International Covenant for Civil and Political Rights (ICCPR) which was ratified by Lebanon in 1972.

Public employees enjoy this right as any other individual, and the exception to this right is limited within the public sector to military personnel, in line with international standards, especially General Comment No.34/2011 on Article 19 of the ICCPR issued by the United Nations Human Rights Committee.

**Second:** Libel and Slander “crimes” within public life are anachronistic “crimes”, public employees are bound to provide the public with information on what is happening within public administrations to achieve public interest in every way possible, as transparency here is attached the Right of the public to Access Information; a right protected under the Lebanese constitution, the UDHR, and the ICCPR also.

**Third:** The need for a transparent, just, and fast investigation while respecting defense rights, especially those related to the Right to a Fair Trial, and prevent those who are lurking public administrations from abusing this investigation in their obstruction of public procurement reform in Lebanon.

Lastly, LTA calls on the judicial authority to be aware of the risks associated with abusing this investigation to prevent the application of the new public procurement law, which is an essential tool for reform to enhance public spending transparency and rationalization, and limiting and preventing conflict of interest and trading in influence within procurement procedures. LTA also calls on the judicial authority to apply the relevant constitutional provisions and the Lebanese state international obligations in relation with the Right to Freedom of Opinion and Expression, and the Right to Access Information.