



EINSCHREIBEN

Federal Department of Foreign Affairs FDFA
Directorate of International Law DIL
Corinne Ciceron Bühler
Palais federal nord
Kochergasse 10
3003 Berne

June 27, 2020

Subject: Solicitation for Clarification

Dear Ms Buhler,

Thank you for writing to us on March 12, 2020 in response to our letter addressed to the Swiss Federal Council dated 24 February 2020.

We greatly appreciate that Swiss authorities are cognizant of the rising tide for real change in Lebanon and share the concern of the Lebanese people regarding allegations of funneling illicit funds abroad.

We also fully concur with you that asset freezing is not, nor should be, a tool to impose change or foreign political interference. As per our letter, our independent call for asset freeze was in anticipation of a possible confiscation and restitution of the assets in a manner that would “improve the living conditions of the inhabitants of the country of origin” (Art.17) and “the financing of programmes of public interest” (Art. 18) as per the Foreign Illicit Assets Act (FIAA).

In its preamble, it is stated that the FIAA is meant to "offer solutions even in cases that cannot be resolved through mutual legal assistance." In the in that spirit and in the spirit of furthering this just cause in cooperation with Swiss authorities, we would like to ask for further clarification regarding the following:

1. The main legal ground of our request was based on Article 4 of the FIAA. We have supplied strong evidence in our first letter that **4.2.b** applies, namely that there is an impairment of the Judicial System of the country of origin causing a failure in mutual legal assistance. Because of such impairment, we considered that the condition of mutual legal assistance instigated by the Lebanese government as per article **4.2.a** could not be fulfilled. We also hope you would concur with us that article **4.2.c** applies. We believe that it is Switzerland's highest interest to promote transparency and actively engage in standing for justice, using all available means to support the Lebanese people in fighting corruption, returning their stolen assets and allowing them to live a decent life in their country.

In your letter, however, you state that the FIAA provides for restrictive conditions which only apply in exceptional circumstances that in your estimation, are not fulfilled in the case of Lebanon. Please provide us with an explanation as to the conditions that are not fulfilled in Lebanon.

2. In your letter to us, you state that you have requested additional information from Lebanese authorities following their January request for mutual legal assistance. We would greatly appreciate to know the type of information you requested from the Lebanese authorities so we can pressure them in case they did not provide it. Lebanon civil society will be better positioned to demand transparency from the government should this be clarified.

We worry that time is not on our side and we believe our request is in line with currently established norms of action in OECD countries like Switzerland. Indeed, according to the World Bank report "Few and Far" measuring the progress of OECD member countries during the period of StAR (Stolen Asset Recovery Initiative) application from 2010 till 2012, key findings outlined the legal avenues that were the most successful in freezing and returning assets:

- Administrative actions introduced to freeze rapidly;
- Proactive initiation of investigations and prosecutions by more jurisdictions rather than waiting for a request from the jurisdiction of the corrupt official;
- Non-conviction based confiscation was used to return more assets than criminal confiscation { commonly thought to be the main legal avenue};
- Countries with established asset recovery policies and solid legal and institutional frameworks continue to achieve success in that domain.

Switzerland was identified as one of the leading countries to adopt these measures. We sincerely hope that you will continue to take our concerns into account and provide further clarification and assistance.

Thank you in advance for your time. We look forward to hearing from you soon.

Sincerely,



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Lebanese-Swiss Association

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