



Federal Department of Foreign Affairs FDFA

Directorate of International Law DIL

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Kochergasse 10

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Subject: Lebanese PEPs Asset Freeze

Reference: Your letters dated

- a) 9th September 2020 Cicéron/Assaf: 041-01-00-02 LIBAN - LIR
- b) 12th March 2020 Cicéron/Assaf: 041-01-00-02-LIBAN - HAEDA

Dear Mrs. Cicéron Bühler

Allow us to first thank you for your most recent letter and sympathy expressed towards the Lebanese people; it is deeply appreciated by all who have been pursuing the cause for justice. Switzerland has been gracious in providing much needed help to victims in Lebanon, and we are deeply grateful that the FDFA has been open and forthcoming to all our letters. The rapidly deteriorating human rights situation since our last exchange compels us to anew a desperate appeal to the Swiss Federation to assist in ending the impunity enjoyed by Lebanese Politically Exposed Persons.

Clarification of our objectives

Notwithstanding the few courageous members in the Lebanese government fighting corruption, we allege that the Lebanese government as a whole, its institutions and collaborators must be considered as part of an organization working in unison across sectarian and political divides which pursues, and has pursued, the objective of securing obscene illicit financial gain to the detriment of an entire nation. And this organization is intent in maintaining that regime, even at the cost of throwing the entire nation into the 3rd worst financial crisis since 1850¹, abusing Switzerland, and other states, as safe-haven to launder and protect their illicit gains.

Our objective is to help end that impunity and for states to offer protection, respect and repair to the victims, empower those in government fighting corruption, and hold perpetrators accountable. As such legal mechanisms are a tactical consideration for us and not an end goal. The FIAA is but one tool.

¹ World Bank statement



We allege that the exorbitant wealth held in Swiss PEP bank accounts is unexplainable and warrants extraordinary measures, such as nonconviction-based asset confiscation. We allege that most assets were illegally obtained and even stringent FINMA rules are easily circumvented by PEPs through state level “forgery” of information and documents. The paradigm in modern democracies such as Switzerland is that institutional checks and balances are functioning under effective executive, legislative and judicial systems. This premise becomes dangerous when a corrupt and failing state is taken into deliberation.

Testimonies on behalf of the victims

Special United Nations rapporteur for Poverty and Human Rights, Olivier De Schutter, unambiguously testifies² that the Lebanese state, including the government and the central bank, is responsible for grave human rights violations resulting from the crisis, including the unnecessary impoverishment of the population of Lebanon, made worse through capital flight and draining of the reserves by few to the detriment of millions. Mr. De Schutter is, to the best of our understanding, identifying the culprits as members of an organized gang.

And De Schutter advocates that, in this case, the political and banking elites *conspiring to destroy* the country's economy must be held accountable. The fact that only those persons which have connections with the banking system were able to contribute to the record inflows to Swiss bank in 2020 is reflected in De Schutter's comments: “Political connections with the banking system are pervasive, pointing at serious concerns about conflicts of interest in their handling of the economy and people's savings”. This “policy” discriminates against millions and pushes these into despair and poverty.

The World Bank describes the financial depression in Lebanon as “deliberate”, with the Lebanese government in “deliberate” denial. The World Bank further ranks this crisis among the worst top three financial crises since 1850, with unprecedented consequences for its human capital, stability and prosperity. It goes on to state that the complete meltdown of Lebanon's economy over the past 18 months is widely blamed on **corruption and mismanagement by the country's hereditary political elite**, and that “Policy responses by Lebanon's leadership to these challenges have been highly inadequate”. UN Secretary General Guterres likens this crime to a Ponzi scheme having “crashed” Lebanon finances. A Ponzi scheme is a criminal offense.

Even Mrs Monika Schmutz Kirgoz, the Swiss ex-ambassador to Lebanon, as guest speaker on Rattibha (رتبها), stated that: “In Lebanon, there is a “Professional” level of corruption”³. She further stated: “We lost trust in the institutions, our multinational companies are closing, and there's no way to reinvest again in this country because of status quo.” If Ambassador Schmutz Kirgoz has lost trust we implore that the Federal Council also loose trust.

Mutual Legal Assistance Act (IMAC) requirements

We appreciate the fact that the “Request for Mutual Assistance” which the Lebanese authorities sent you in January 2020 did not meet the Mutual Legal Assistance Act (IMAC) requirements. We further value the fact that the Swiss Federal Office of Justice is committed to supporting the Lebanese authorities and, as such, had requested additional and complimentary information required by IMAC. We understand, that at the time of your last writing in September of 2020 you informed us that the FIAA conditions had not met because the mutual legal assistance proceeding was/is still pending, and that consequently Art. 4(2) of the FIAA could not be exercised, and you were unable to pursue proceedings.

² [Lebanon: UN expert warns of ‘failing State’ amid widespread poverty | OHCHR](#)
رسالة من الأمم المتحدة إلى الحكومة اللبنانية المغيبة: استعادة الثروات المنهوبة وتعزيز المساعدة | Daraj

[Statement by Professor Olivier De Schutter, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Lebanon, 1–12 November 2021 \[EN/AR\] - Lebanon | ReliefWeb](#)

[Lebanese State Violated Human Rights by Mismanaging Crisis, UN Poverty Envoy Says | Majalla](#)

³ <https://rattibha.com/thread/1317115796372529152?lang=en>



Cooperation with Lebanon is proving to be impossible

An article in “Executive” Magazine (August 20, 2020)⁴, states that: “Local (Lebanese) media also cited an anonymous source close to the International Monetary Fund who alleged that the Lebanese “political-financial system” had used “all means possible” to thwart asset recovery efforts.” Lebanese ex-justice minister Najm (Diab Cabinet) stated in April 2021 that the Lebanese justice system is unable to combat corruption.

We believe that your wait for this complimentary information is in vain. Consequently, after more than 2 years of waiting, we urge the Swiss authorities to consider that the absence of a reply from the Lebanese authorities regarding the request for complimentary information mirrors the condition set forth in **FIAA Art. 4(3)**:

“An asset freeze shall also be admissible (in addition to Art. 4(2)) where, following receipt of a request for mutual legal assistance, cooperation with the country of origin proves to be impossible because there are reasons to believe that proceedings in the country of origin do not satisfy the essential principles of procedure foreseen in Article 2 letter a of the Mutual Assistance Act of 20 March 1981³ and where the safeguarding of Switzerland's interests so requires.”

Regarding FIAA Art. 3: Freeze for purposes of mutual legal assistance

You have in past letters⁵ advised us of the fact that “after careful examination of the situation in Lebanon, we consider that these (FIAA) conditions are not cumulatively fulfilled.” These four conditions for blocking potentate funds appear to be a key reason for dismissing our initial request to freeze under Art. 3. But it is not mentioned which of the 4 conditions are not fulfilled.

- In our understanding the FIAA law and subsequent asset freeze do not preclude either i) ongoing demonstrations or ii) sustained calls for change, which you mention are hindering implementation.
- We would argue that the Hariri government had indeed lost power at the time of writing of our first letter, so condition 1 was met. At the time of our writing, the Diab government was in office.
- The suggestion that we would be using FIAA as a tool for change is misplaced because the government had already lost power without the FIAA. Members of the ex-Hariri cabinet could be held accountable under the FIAA.

Unexplained Record Money flows

The fact that record money inflows in 2020 into Swiss banks were recorded, in spite of “illegal” capital controls imposed by banks as of October 17, 2019, whilst millions of “regular” account holders, and victims of crime, in Lebanese banks were discriminated against and denied access to their deposits, is, in our opinion, extraordinary, and warrants extraordinary action. The 2021 Q4 report from the Bank of International Settlements, lists Banks' cross-border positions on residents of Lebanon. It is unsettling to see that Switzerland holds the highest liabilities towards residents of Lebanon, more so than any other country in the world.

Special UN rapporteur De Schutter further refers to statistics from 2017 to 2021 which show that deposits held by residents of Lebanon abroad have doubled, which he infers means that the powerful and knowledgeable people, in knowledge of the magnitude of the crisis on the horizon, have moved (and continue to do so) their money out of Lebanon, threatening the sustenance of normal depositors. Worse still, he confirms, is the fact that the official financial recovery plan does not include any mechanism for recovering depositors' funds and “illicit” gains in cases of misconduct, a key way to ensure that “financial irregularities” can be prosecuted in the future.

⁴ <https://www.executive-magazine.com/special-report/lebanon-could-utilize-unexplained-wealth-orders-to-recover-stolen-assets>

⁵ Your letter dated: September 9, 2020



De Schutter's further comments: "Political connections with the banking system are pervasive, pointing at serious concerns about conflicts of interest in their handling of the economy and people's savings". This "policy" discriminates against millions and pushes these into despair and poverty.

It cannot be that Swiss banks are used to facilitate grave human rights violations and money laundering committed by Lebanese PEPs and their collaborators. This contravenes the UN Guiding Principles of Human Rights and Businesses, which calls for protection, respect and remedy of victims, especially, given the fact that the Swiss National Action Plan 2020–2023 is fully supportive, and advocates globally, for the implementation, of these guidelines.

Switzerland has been exemplary in the past

Switzerland has been exemplary and helped victims of crime in the past. The allegations of misappropriation by the Mubarak family prompted the Swiss government to make use of its prerogative under article 184(3) of the Swiss Federal Constitution to issue ordinances and rulings required to safeguard the interests of the country. The Swiss decision showed its willingness to act against assets of presumed illicit origin. In an interview with Swiss newspaper NZZ am Sonntag, former Swiss President Micheline Calmy-Rey said **Switzerland had to ensure it was not a haven for "dirty money": "It cannot be that right at our door some people embezzle state funds and put them into their own pocket"**. She further ascertained that even in **the absence of concrete data, the suspicion of ill-gotten assets justified such a move**: "We don't have any very clear indications that anything is here, but of course we're in the process of clarifying this and we'll act appropriately," she said.

We would plead on behalf of over 5 million victims that the Swiss assume their leading role as protector of human rights and urge that the Swiss government use all legal tools at its disposal. That may include, in addition to the FIAA, the government's constitutional prerogative article 184(3), mutual legal assistance mechanisms under the Swiss Criminal Code of December 21, 1937 (SCC), the Federal Money Laundering Act of October 10, 1997 (MLA) and the Federal Act 3 4 on International Mutual Assistance in Criminal Matters of March 20, 1981 (IMAC). We particularly note that the Federal Council is authorized to implement Swiss sanctions regimes governed under the Federal Act on the Implementation of International Sanctions, also known as the Embargo Act (EmbA) for the enforcement of international law, in particular, of human rights. This includes sanctions imposed by e.g. the European Union.

As such we would also welcome imposing sanctions against Lebanese PEPs under the EU COUNCIL DECISION (CFSP) 2021/1277 of 30 July 2021 concerning restrictive measures in view of the situation in Lebanon, in addition to making use of non-conviction based forfeiture proceedings, which Swiss laws caters for. And we welcome Switzerland, acting under national (CH), international and human rights laws, to assume the responsibility to secure and protect those assets under Swiss jurisdiction in a fund dedicated to victims of abuse of power by the Lebanese state protected by Swiss justice for future restitution.

Switzerland has been a beacon as a Human Rights Defender

We laud the fact that the Swiss government has long considered it to be in Switzerland's fundamental interest to ensure that assets of PEPs which were obtained by unlawful means are not held in Switzerland.

We praise Switzerland's protection of its reputation as a financial centre as well as the reputation of the country as a whole is in Switzerland's interests within the meaning of article 184(3) of the Swiss Federal Constitution.

We urge the Swiss Confederation to continue along these honourable lines and we extend an offer to help and assist Switzerland in its fight against money laundering. Switzerland has to ensure it is not a haven for "dirty money from Lebanon.



Using former Swiss President Micheline Calmy-Rey's words⁶: It cannot be that, right at Switzerland's door Lebanese politicians embezzle state and public funds, and put them into their own pocket, and cause a deliberate financial crisis and human tragedy of epic proportions under the shield of impunity. It cannot be that cancer, and other, patients in Lebanon⁷ are dying a 'slow death' as medicine becomes increasingly unavailable and unaffordable. It cannot be that suicides are surging⁸ as a result of the man-made crisis⁹. It cannot be that the Beirut blast victims will not be afforded justice. It cannot be that millions of account holders, an entire nation, are robbed of their savings. And the appalling conditions will continue to deteriorate.

In hope and anticipation, an entire nation awaits your bold and courageous move.

Best regards



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- Committee of the UN Security Council Resolutions for Lebanon.
- Lebanese International Lobby.
- ICLIC International Commission for Lebanon against Impunity and Corruption.
- Meghterbin Mejtemiin
- MCLM Mouvement des Citoyen Libanais du Monde.
- Lebanon Hub - Australia
- Coopération Franco-Libanaise - France.
- Our New Lebanon - USA.
- Lebanese Diaspora Exchange - Canada.

⁶ [Campaigners praise Mubarak asset freeze - SWI swissinfo.ch](#)

⁷ [Cancer patients in Lebanon dying 'slow death' as | Roya News](#)

⁸ [Suicides surge in crisis-hit Lebanon \(trtworld.com\)](#)

⁹ EU parliament members statement