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A-Mail

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OPEN

041-01-00-02-2/47 – LIBAN – HAEDA
Berne, 16 August 2022

Your letter dated 14 June 2022

Dear Mr. Assaf

I would like to thank you for your letter, dated 14 June 2022, in which you “appeal to the Swiss Federation to assist in ending the impunity enjoyed by the Lebanese Politically Exposed Persons”. In this context, you refer to different legal tools that could be applied, such as International Mutual Legal Assistance (MLA) in criminal matters, the Federal Act on the Freezing and the Restitution of Illicit Assets held by Foreign Politically Exposed Persons (FIAA) or the European Union (EU)’s framework for targeted restrictive measures to address the situation in Lebanon. Let me briefly elaborate on these legal tools and outline the latest developments in this regard:

MLA

In your letter, you refer to MLA as a legal tool to be applied. We can inform you that with regard to the present context, MLA cooperation between Lebanon and Switzerland has in the meantime started and is currently ongoing. The Federal Office of Justice (FOJ) is the competent Swiss authority in this matter. The Federal Department of Foreign Affairs (FDFA) cannot comment on these ongoing proceedings.

FIAA

In your letter, you also refer to Article 3 and Article 4 of the FIAA. As you know, the purpose of Article 3 is to freeze potential illicit funds in view of an MLA cooperation with the foreign state. The application of this article presupposes the sudden fall of a regime whose leading officials have unlawfully enriched themselves. In such a case, the freeze would secure possible funds in Switzerland until the new authorities in the foreign state establish MLA relations with Switzerland. As mentioned above, in the present context such MLA relations have already been established, namely in connection with the corruption allegations against the head of the Lebanese Central Bank.

On the other hand, Article 4 of the FIAA foresees the freezing for purposes of confiscation in the event MLA proceedings fail. Both, Article 3 and Article 4 can only be applied in extraordinary situations and are - above all - subsidiary to MLA cooperation. Since MLA proceedings are ongoing between Lebanon and Switzerland the question of applying the FIAA does not arise.

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Sanctions regime

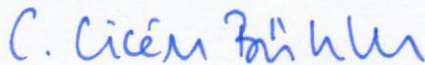
Finally, in your letter you refer to sanctions. The State Secretariat for Economic Affairs (SECO) is the competent Swiss authority in this matter.

The framework for sanctions against Lebanese PEP, which was adopted by the EU on July 30, 2021, introduced the possibility for EU targeted travel and financial sanctions against i.a. persons who engage in serious financial misconduct, including corruption and the unauthorized export of capital. Based on the Federal Act on the Implementation of International Sanctions (EmbA), the Swiss Federal Council may enact compulsory measures in order to implement sanctions that have been ordered by the UN, the OSCE or by Switzerland's most significant trading partners (in practice the EU). When it comes to sanctions of the EU, the Federal Council decides on a case-by-case basis whether Switzerland should align fully or partly with EU sanctions or not align with them. Even though the EU has adopted a sanctions framework, to this date no individuals or entities have been sanctioned under this framework. Therefore, the question of adopting such a framework does not arise. Furthermore, the EmbA provides no legal basis for autonomous sanctions by Switzerland or for sanctions that go beyond those decided by the UN or the EU.

We hope to have served you with this information.

Best regards,

Directorate of International Law DIL



Corinne Cicéron Bühler
Director