



February 24, 2020

Request to the Federal Council of Switzerland

**Subject: Official Request to Act and Freeze the Bank Accounts of Lebanese Politically Exposed Person (PEP) in Switzerland under suspicion charge of corruption in Lebanon.**

We would like to officially ask the Federal Council of Switzerland to help in our fight against Lebanese corrupted politicians, businessmen, and their close associates. We are formally requesting the freeze of their assets in Switzerland pursuant to Article 4 of the THE FOREIGN ILLICIT ASSETS ACT (FIAA) - December 18, 2015 status as of July 1, 2016, based on Article 54 of the Federal Constitution in regard to the Federal Council Dispatch of May 21 2014.

FIAA provides that in the event the Mutual Legal Assistance fails - due to the impairment of the Lebanese Judicial System as further developed hereinafter in Section 1 - the Federal Council is enabled to initiate proceedings - and order a precautionary freeze - 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).

## **Section 1- CONTEXT IN LEBANON**

Lebanon suffers from extensive corruption and fiscal leakages at many levels. According to Transparency International (2019), it ranked 137th out of 180 countries assessed. For more than 30 years, Lebanese politicians and their wealthy associates have unjustly enriched themselves through a myriad of corrupt strategies. These include embezzlement of public funds, nepotistic allotment of public works projects, encroachment on public spaces for private gain, as well as the destructive exploitation and division of spoils of the country's natural environment and resources. Many of these violations were legitimated through the unjustified exercise of public authority and the abuse of judicial power.

Rampant corruption has exacerbated political instability and the dire economic situation to the point of threatening a total collapse of state structures and social order. This led to people filling public places for more than three consecutive months since October 17<sup>th</sup> 2019. Hundreds of thousands of Lebanese flooded the streets asking for the resignation of the government, an end to corruption, and called for accountability. These actions fell on deaf political ears. The country continued to drift towards an economic meltdown that has led to severe consequences for Lebanese citizens: spiraling unemployment, snowballing inflation, social unrest, civil strife, and a severe deterioration in public health and other basic services.

Lebanon is facing a triple deficit. A ballooning public debt equivalent to 160 percent of GDP, a spiraling government budget deficit (15 percent of GDP) - and balance of payments deficit with capital flight leading to a negative current account. This has led to waning investment confidence, inflation nearing 30 percent, increasing political deadlock and foreign currency liquidity shortages.

As detailed in Section 3 below, fiscal authorities, including the ministry of finance, and monetary authorities, including the central bank, have miserably failed to protect the public and private assets of their citizenry. They have either failed to take concrete action or belatedly issued decisions that penalized ordinary people and turned a blind eye to the violations of politicians. In the absence of government action, the Association of Banks in Lebanon, a private association with no official public mandate, has taken upon itself to impose unlawful capital controls on individual accounts, reducing the population to begging in order to retrieve their own money.

Meanwhile, and according to a communique issued by Samir Hammoud, the head of the Banking Control Commission (BCL), close to 2.2 USD bn dollars were transferred from Lebanese banks to Switzerland between 17 Oct. 2019 and 14 Jan 2020. Hammoud declined a request by the attorney general to investigate the origin of these moneys under the pretext of banking secrecy, and threw the ball into the Special Investigative Committee's court. We suspect that politicians have used this loophole, of unofficial capital controls, to funnel their own money abroad in a "legal" fashion. This has led to a collapse of trust in public authority and made any mutual legal assistance cooperation via government channels suspect.

In this situation, where there is clear evidence of corruption to build on, and where the current people in power's systematic action undermines the normal construction process of a country coming out of a destructive civil war, deprives law from its substance and steals the country at every level of its institutions, as well as abusing their position to expand their personal wealth, whereas, on the other hand, Lebanese people have been deprived of the right to live in physical safety and financial security; it is intolerable that Lebanese politicians who have contributed to the fall of our country benefit from any kind of impunity, let alone private enrichment, and receive privileged treatment in terms of fund transfers and retention.

Due to the fact that the Lebanese judicial system suffers from violations of the fundamental principle of separation of powers which results in the lack of independence of the judiciary and undermines the rule of law and due to the improper political influence over every aspect in judges' careers, thereby subjugating judges to the political authority, the Lebanese judicial system is completely impaired and cannot play its role properly to fight corruption and assume its responsibilities.

People's demands are simple. They want the anti-corruption mechanisms to be implemented: **Transparency, Accountability, and Incrimination**. Freezing the assets of politicians and their close associates will go a long way in restoring confidence and hope among the Lebanese of a transition to a just and stable political and economic order.

## **Section 2. CONTEXT IN SWITZERLAND**

Switzerland is a leading OECD member that has consistently upheld the UN Convention to Fight Corruption (2003), implemented the Stolen Asset Recovery Initiative Star and established asset recovery policies and solid legal and institutional frameworks and continues to date to achieve success in that domain.

One of the legal frameworks and institutional arrangements for tracing, freezing, and recovering illegal assets is THE FOREIGN ILLICIT ASSETS ACT. Indeed, article 4 covers the freezing, and recovery of the assets of the foreign PEP when a request for mutual legal assistance cannot succeed because of the impairment of the judicial system in the country of the PEP (A. There is no need for a conviction of the PEP in his country, (B. and the presumption of the illicit nature of assets is established when the enrichment of the PEP is clearly exorbitant (B. and the degree of corruption in the state of the PEP is notoriously great.

Moreover article 15 of the same law on "presumption of illicit origin" stipulates that assets are presumed of illicit origin when following conditions are fulfilled :

1. The wealth of the PEPs increased significantly in disproportion with the income legitimately earned;
2. The level of corruption in the country of origin was notoriously high during their term of office.

The two conditions of article 15 are very relevant to Lebanon and our situation as described herein above.

In that case, the Federal Council may order an assets freeze in anticipation of initiating proceedings for confiscation of assets in order to preserve such assets and prevent them from being transferred.

**Section 3. THE ACTION** - The action we propose to work on is the following:

**Act and Freeze** - On October 21<sup>st</sup>, 2019 in accordance with the Lebanese law number 44 passed in 2015 related to fighting money laundering and the financing of terrorism activities, “**Nadi Koudat Loubnan**” – *The Lebanese Judges Association*, an association composed of independent judges - almost one third of all judges whose aim is to claim for and achieve the independence of the judicial authority - sent a formal request to the Special Investigative Committee at the Lebanese Central Bank for an immediate precautionary freeze of all the accounts of every individual in public office and their associates, pending investigation and prosecution procedures based on the existing suspicious environment of high accusations of corruption and stolen public assets (**copy of the document officially translated in English attached**). The request also referred to the obligation set on the Special investigation Committee at the Central Bank to communicate with their foreign correspondents and all other relevant official authorities in foreign countries hosting the bank accounts of the Lebanese politically exposed persons (peps) and request all needed information relative to the suspicious accounts of the peps, as provided in the Lebanese law and the UN Convention against Corruption which both Switzerland and Lebanon are signatories.

Their demand was not acknowledged, and the Committee’s legal obligation was thus not met. This is one example of the blatant disregard of the Constitution and the rule of law, and of the impairment of the judicial system that should have automatically initiated such a request.

The Lebanese Judges’ Association request offers a solid ground on which we can build a legitimate procedure to act and freeze all accounts of incriminated suspects, including ALL Lebanese politicians without any exception. The considered public interest’s crisis is above any private interest especially when suspects are politicians whose one and only function is to uphold the law in the service of the people. The situation has proven to be grave enough to take preventive legal measures and allow justice to take its course.

**Accordingly, we are requesting from the Federal Council of Switzerland to support our legitimate fight against corruption and act to freeze - until justice take its course - all the assets of Lebanese politicians and businessmen, and their close associates, potentially involved in wasting and stealing public assets pursuant to the Article 4 of THE FOREIGN**

**ILLCIT ASSETS ACT - December 18 2015, based on Article 54 of the Federal Constitution  
in regard to the Federal Council Dispatch of May 21, 2014.**

Based on the above, we ask Switzerland to set a precedent and help Lebanon take its fate in its hands by trying those who stole assets. We request Switzerland to support the Lebanese and restore their hope for justice, to reinstate transparency and reinforce the rule of law.

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**Beirut Madinati** <http://www.beirutmadinati.com/> is an urban-based political party that puts forward a people-centered vision of politics challenging the dominant model of sectarian and corrupt governance in Lebanon. The movement is committed to the wellbeing and dignity of citizens, as well as the respect of human rights and of the principles of inclusivity, equality, participatory, transparency, and accountable governance. Beirut Madinati aspires for a just and humane society, one that respects the economic and political rights of all individuals, while preserving our natural and built heritage and, more generally, the health of our planet. The movement was originally launched in 2016, in the context of the Municipal Elections of Beirut (Lebanon) but has since consolidated into a coalition of individuals committed to its vision of politics and change.

*Beirut Madinati is registered under the number 1004 at the Ministry of Interior and Municipalities in Lebanon. Notice of recognition duly translated is here attached.*

### **Maitre Nadine Moussa - Attorney at Law at Beirut Bar**

Maitre Nadine Moussa is a Beirut based Attorney with over 15 years experience in public interest advocacy and promoting civil society organisations, subject of a profile in Wikipedia, founder and former president of the Lebanese Association to Prevent Corruption, civil rights advocate and pro-bono legal consultant for human rights and environmental cases and NGOs, advocate and local organiser for women's empowerment, published op-eds in local newspapers, speaker on the promotion of democracy and fight against corruption in the Arab world at several international forums (G8's Broad Middle East & North Africa Initiative, Arab parliament, Arab League) and active member of Lebanon Bar Association since 1995.

### **The Lebanese Swiss Association** <http://www.lebanese-swiss-association.com/>

The Lebanese Swiss Association for Human Rights protection, L.S.A is an association, which aims at achieving the 30 articles of the Universal Declaration of Human Rights, signed by the United Nations in Lebanon, and this is by using all the judicial routes available for the prosecution of anyone who stands behind the violation of human rights of the Lebanese people.

### **Impact Lebanon Ltd**

Impact Lebanon is a non-profit organisation based in London that serves as an umbrella organisation bringing the Lebanese community together to share knowledge, resources and expertise; provide guidance and support to initiatives for the benefit of Lebanon; and make activism and volunteering accessible, relevant and sustainable for the Lebanese diaspora to ultimately create impact for Lebanon. We aim to bring the community together based on the conviction that it is our responsibility to be part of the change we hope for Lebanon and to be active citizens wherever we are in the world. Our values include non-sectarianism, inclusiveness; integrity, equality, accountability and transparency, justice and respect. We pledge to approach our endeavours, always respecting human rights, the environment and the rule of law.

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**Le Mouvement des Citoyens Libanais du Monde (MCLM) <http://Mouvement des citoyens libanais du monde - MCLM/>**

Le MCLM réunit des ressortissants libanais résidant au Liban ou en dehors du Liban, indépendamment de leurs confessions ; il accueille toute personne désireuse d'agir activement afin de promouvoir et de défendre les valeurs démocratiques et républicaines au Liban, sur une base institutionnelle non confessionnelle ; le MCLM est enregistré au registre des associations de France sous le numéro RNA W751251717.

**Meghterbin Mejtemiin** Meghterbin Mejtemiin (Lebanese Diaspora United) is an international grassroots initiative that started its activities on October 18th, the day after the start of the Lebanese revolution. The movement brings together independent Lebanese around the world and seeks to support the revolutionaries on the ground in every way possible. Meghterbin Mejtemiin has members from all over the world, including the Middle East, Europe, North America, Latin America, all striving to capitalize on our diversity of strengths and perspectives as we work to build the Lebanon we all deserve.