


THE CHALLENGING PATH OF REFORMS IN LEBANON

**THE INDEPENDENCE OF THE JUDICIARY IN LEBANON:
EFFECTIVENESS OF INTERNATIONAL TECHNICAL
ASSISTANCE DEPENDS ON POLITICAL WILL**





This report is part of a series of reports produced by Maharat Foundation to track the progress of reforms highlighted in the Lebanon [Reform, Recovery and Reconstruction Framework \(3RF\)](#) which is part of a comprehensive response to the massive explosion on the Port of Beirut on August 4, 2020, launched by the European Union (EU), the United Nations (UN) and the World Bank Group (WBG).

1- INTRODUCTION TO THE INDEPENDENCE OF THE JUDICIARY IN LEBANON

The fifth paragraph of the preamble of the Lebanese Constitution stipulates that the Lebanese system is based upon the principle of separation of powers, their balance, and cooperation. Article 20 of the Constitution reaffirms that judges shall be independent in the exercise of their functions and that decisions and judgments of all courts shall be rendered and executed in the name of the Lebanese People.


Contrary to what the Constitution states, the judiciary in Lebanon is directly tied to political power, leading to the paralysis and lack of independence. The case of the Beirut port explosion on August 4, 2020, serves as the most prominent illustration of the state of the judiciary in Lebanon. The extensive interventions and political interference in judicial decisions throughout the investigations have resulted in a lack of accountability regarding those responsible for the explosion. This persists to the present day, nearly four years after the incident.

2- PROGRESS TOWARDS AN INDEPENDENT JUDICIARY IN LEBANON

To this day, political authorities continue to procrastinate in the examination of the law on the independence of judicial courts without enacting it, despite the technical assistance provided by the international community (including the [TAEIEX Functional Review of the Justice System in Lebanon](#)) and the importance of the reform of the judiciary sector within the country's efforts to overcome the multi-layered crisis.

As part of the international community's support for judicial reform in Lebanon, a working group dedicated to the justice sector was formed within the Reform, Recovery, and Reconstruction Framework (3RF). Maharat Foundation had previously published a detailed [report](#) on it.

In the same spirit, on February 29, 2024, the Minister of Justice, in collaboration with the President of the Administration and Justice Committee of Parliament, the Presidents of the Supreme Judicial Council and the Conseil d'État, [launched](#) the Justice Forum with the support of the United Nations Development Programme (UNDP) and the European Union (EU) to strengthen the justice system in Lebanon.



Amidst the unprecedented challenges facing the country, which have significantly affected justice institutions, this initiative marks a decisive turning point. This forum represents an acknowledgment by authorities in the justice sector of the pressing need for comprehensive reform within the sector.


Furthermore, [the forum](#) “aims to bring together stakeholders from across the justice sector- including the executive, judicial, and legislative bodies, Bar associations, academia, and civil society- to develop a national roadmap that seeks to address the myriad of challenges facing justice institutions and improve the delivery of justice services. Among these challenges is the need to strengthen the independence and effectiveness of justice institutions.”

According to the [concept note](#) of the Justice Forum, the latter is composed of:

- A General Assembly: Represented by the judiciary in all its branches, tasked with ensuring the strategic direction of the forum. The general assembly is supported by the leads of the Justice Sector Working Group within the 3RF, represented by the United Nations Development Programme and the European Union.
- Thematic Working Groups: Where technical discussions will be held on the main axes of the roadmap towards an independent judiciary in Lebanon. These groups will cover and discuss specific issues including:
 - 1- Independence of the judiciary: its composition, jurisdiction, powers, and the advancement of the accountability principle.
 - 2- Efficiency, transparency, and digitization of the justice system.
 - 3- Criminal justice and human rights.
 - 4- Juvenile justice and child protection.
 - 5- Administrative judiciary.

Each thematic working group consists of relevant stakeholders. In addition, international expertise will contribute to supporting technical discussions and shedding light on best practices.

At the [recent meeting](#) of the working group dedicated to the justice sector within the 3RF that took place on December 18, 2023, the latest updates on the draft laws on the independence of the judiciary were provided. The Committee on Administration and Justice noted that the Parliament was almost inactive in the absence of a President of the Republic. Furthermore, the Speaker of the Parliament Nabih Berri decided to postpone the decision on the draft law on the independence of judicial courts in the session held on December 15, 2023, in order to focus on extending the term of the Lebanese Army Commander-in-Chief.



Today, two draft laws on the independence of administrative courts, one submitted by MP Osama Saad and the other one by MP Georges Adwan, are being discussed in the subcommittee derived from the Committee on Administration and Justice, which held its [last session](#) on March 5, 2024.

The Reform, Recovery, and Reconstruction Framework (3RF) published on its website the minutes of the most recent meeting of the working group dedicated to the justice sector.

On the other hand, the Venice Commission began its [advisory task](#) regarding the draft law on the independence of administrative courts on February 1, 2024, following a request from the Minister of Justice in the caretaker government, Henry Khoury. This constitutes its second contribution in Lebanon after [providing advice](#) in June 2022 on the draft law on the independence of judicial courts, as adopted by the Committee on Administration and Justice on December 21, 2021.

It is worth [mentioning](#) that “the Venice Commission is the abbreviated name for the European Commission for Democracy through Law, which is an advisory body of the Council of Europe. It has specifically worked on legislative matters in several countries in the process of transitioning to democracy, including Tunisia and Eastern European countries. It was initially called upon by former Minister of Justice Marie-Claude Najm, in response to a request from the Judiciary Independence Coalition, as part of their effort to emphasize the disregard of the mentioned version of the draft law for judicial independence standards”.

Today, steps and initiatives supported by the international community, such as the Justice Forum, are crucially important. The judiciary is increasingly paralyzed day by day, affected by the economic, political, and social crises in the country. In comparative terms, to grasp the gravity of the situation, Lebanon exhibited weak performance regarding judicial independence. According to the Global Competitiveness Report for the year 2019, Lebanon recorded an average score of 34.6, ranking 98 out of 141 countries.

4- CHALLENGES TO JUDICIAL INDEPENDENCE IN LEBANON:

- **Deepening economic crisis:** The deepening economic crisis in Lebanon has resulted in logistical constraints and a decrease in the value of judges' salary, significantly disrupting judicial operations.
- **Political instability:** The institutional life irregularity in the country, particularly the presidential vacuum in Lebanon, leads to voids in certain governmental positions and an executive vacuum due to the absence of an effective fully-fledged government, significantly impacting legislation related to the judiciary. For instance, the Committee on Administration and Justice noted that Parliament is almost paralyzed amidst the presidential vacuum, with insufficient priority given to the judiciary in Lebanon.
- **Legislative delays:** In the recent meeting of the Justice Working Group under the Reform, Recovery, and Reconstruction Framework (3RF), Legal Agenda highlighted delays in discussing the draft law on the independence of administrative courts in the Committee on Administration and Justice. The latter attributed this delay to human resource shortages and prolonged deliberations on a single law provision.
- **Political interference in the judiciary:** Despite constitutional principles of separation of powers, most of the judiciary in Lebanon is subject to political interference, hindering reform efforts and full judicial independence.
- **Venice Commission recommendations ignored:** When the Venice Commission issued its advisory opinion on the draft law on the independence of judicial courts in June 2022, it was [disregarded](#) by the Committee on Administration and Justice, despite being requested by the Lebanese government. The disregard for the Venice Commission's recommendations poses a significant challenge to any reform of the justice sector.
- **Exclusion of civil society:** The right of judges to establish a professional association continues to be questioned, and efforts are being made to marginalize them. For instance, the Minister of Justice lodged a complaint with the Judicial Inspection Authority in September 2023 against all members of the administrative board of the "Judges' Club", attaching all the statements issued by the "Judges' Club" since his assumption of office, deeming it a breach of the obligation of restraint. Furthermore, the President of the Conseil d'État issued a memorandum forbidding administrative judges (members of the Judges' Club) from participating in the subcommittee tasked with studying the draft law on the independence of the administrative judiciary. Additionally, there have been repeated attempts to exclude Legal Agenda from the discussions, as [stated by the organization.](#)

5- RECOMMENDATIONS

- **Ensuring political stability:** through the election of a President and the formation of a government to expedite the legislative process dedicated to the judiciary sector.
 - **Activating the role of civil society:** Given the significant political interference in the functioning of the judiciary and its detrimental effect on the principle of judiciary independence and the separation of powers, it is crucial to ensure the effective involvement of civil society. This entails providing civil society with the necessary guarantees for overseeing the work of committees and bodies specialized in the judiciary sector, identifying shortcomings, informing the public opinion, and exerting pressure on relevant stakeholders.
 - **Taking into account the recommendations of the Venice Commission:** Legal Agenda [highlighted](#) the disregard for the opinion of the Venice Commission regarding the draft law on the independence of the judiciary. Therefore, it is imperative today to consider the advisory opinions of the Venice Commission regarding the draft laws on the independence of the administrative and judicial courts.
 - **Serious response to international technical assistance:** During the recent meeting of the working group dedicated to the justice sector, the Head of Cooperation of the European Union Delegation to Lebanon, emphasized the international community's support for reforms in the justice sector. As evidence, the establishment of a dedicated working group for the judiciary sector and the provision of technical assistance were cited. However, the role of the international community ends here, and it is up to the Lebanese authorities to implement the reforms.
 - **Establishing a dialogue forum with Lebanese universities:** Lebanese universities can organize seminars and workshops on specific topics involving judges. This participation and exchange of expertise between students, academics, and non-governmental organizations will enhance efforts towards judicial reforms.
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