

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the independence of judges and lawyers**

Ref.: AL LBN 7/2023  
(Please use this reference in your reply)

4 December 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 50/17, 52/9 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning information we have received concerning reported threats, acts of intimidation and disciplinary measures taken against the **Lebanese Association of Judges**, and its leadership, by the Ministry of Justice, which result in undue restrictions to the freedoms of expression, association and independence of judges in Lebanon.

We have raised similar concerns in our previous communication sent to Your Excellency's Government in June 2023 (LBN 3/2023) on information received concerning circulars No 348 and No 352 imposed on judges and approved by the Acting Minister of Justice on 24 April 2023.

According to the information received:

*The Lebanese Association of Judges*

The Lebanese Association of Judges (further referred to as "Association") was registered as an association in 2018 following, reportedly, 12 years of the refusal from the authorities to grant the registration. The Association's members comprise judges who aim to draw public awareness to the importance of the independence of the judiciary and the rule of law in Lebanon. The members regularly engage in public debates by issuing public statements and participating in interviews and conferences.

Since the current Minister of Justice took office in September 2021, the Association members have reportedly faced opposition from the Ministry to the work of the Association on a number of instances. This has, allegedly, resulted in the restrictions of their rights to freedom of expression and to freedom of association. Allegedly, following the release of public statements by the Association via social media, the Minister reached out to the judges through various channels expressing his opposition to such statements and threatening to take disciplinary measures against the Association's members. More recently, on 10 November 2023, during a meeting with the Minister, a board member of the Association was allegedly informed that any statement issued by the Association would be forwarded to the Judicial Inspection Authority (JIA) for disciplinary action.

### Disciplinary Proceedings against the President of the Association

According to the information received, the Minister of Justice, allegedly, initiated three disciplinary proceedings against the President of the Association concerning his public statements made to the media, which, reportedly, addressed issues related to the functioning of the judiciary and its independence without discussing any specific judicial or legal proceedings. The cases were as follows:

1. At the beginning of April 2022, the Minister of Justice asked the Judicial Inspection Authority to take disciplinary action against the President of the Association for appearing on television without the Minister's prior authorization. The disciplinary proceeding concluded with a written notification, which indicated that the President was required to seek the Minister's authorization before appearing on television.
2. At the end of April 2022, the Minister of Justice requested the Supreme Council of the Magistracy to take disciplinary action against the President of the Association for appearing on television without his prior authorization. In the second disciplinary proceeding before the Supreme Council, the outcome was a notification instructing the President to adhere to the obligation of restraint.
3. In April 2023, the Minister again requested the Judicial Inspection Authority to take disciplinary action against the President of the Association for appearing on television without his prior authorization. As for the third proceeding, the decision has not yet been reached.

### Circulars No 348 and No 253 to the Judges

Furthermore, on 26 April 2023, the Minister of Justice issued two circulars (No 348 and No 352) applicable to all the judges, which were, allegedly, not published through official channels but were leaked to the public in May 2023. Circular No 348 prohibits judges from communicating directly or indirectly with any embassy, governmental or non-governmental organization, or association about participating in forums or workshops in Lebanon or abroad or for any other reason until the other party submits a request to the Ministry. The circular also requires judges to obtain the Minister's permission at least ten days before travelling abroad. Circular No 352 stipulates that all judges must refrain from any kind of media appearance and from taking any position on any media, online services, or any other platform without first obtaining permission from the relevant authority.

On 4 May 2023, the Association issued a statement opposing the circulars arguing that the Minister of Justice did not have the authority to issue circulars to judges based on the constitutional principles of separation of powers and independence of the judiciary.

### Disciplinary Proceedings against the Association

The Minister of Justice has also allegedly initiated disciplinary proceedings against the entire Association. On 4 September 2023, the Minister reportedly filed a complaint with the Judicial Inspection Authority against the Association based on all public statements issued by the Association since 2021, including the involvement of the Association's President in public interviews. The Minister argued that the Association's activities, allegedly, violated the duty of restraint of judges (also known as the duty of secrecy or discretion), and harmed the interests of the judiciary. Reportedly, the Association's public statements did not disclose any information exclusive to particular cases but focused on matters of public interest related to the independence of the judiciary and accountability issues. As a result of this complaint, the JIA summoned the President of the Association for a hearing on 4 October 2023. All eight board members of the Association also took part in the hearing and were interviewed by the JIA. The JIA has not issued any decision on this case yet.

Without prejudging the veracity of the above allegations, we wish to express our concern about the threats, acts of intimidation and disciplinary actions directed against the **Lebanese Association of Judges** and its leadership, which could obstruct the Association's work and restrict its members' rights to freedom of association and expression. We are concerned that the succession of complaints calling for disciplinary actions against the Association will create an environment of fear which could prevent the Association's members from carrying out their activities and could discourage new members from joining the Association and participating in its activities due to fear of repercussions such action may have on their professional paths.

We are further concerned that the new restrictions introduced by the Ministry of Justice, such as circulars No 348 and No 352 of 26 April 2023, may limit the freedom of expression of judges. We worry about the broader significance and negative implications that the targeting of the Association has for the overall enjoyment of freedoms of expression and association in Lebanon, *inter alia* through the chilling effect on the judges and lawyers in Lebanon, who may wish to express themselves on issues of public interest, participate in the associations and advocate for greater respect for the rule of law, the independence of the judiciary and accountability measures.

While recognizing that the judiciary has a responsibility to preserve its own impartiality and independence at all times and that this may require judges themselves to ensure that their public statements or association with outside bodies do not undermine the right to a fair trial of those seeking justice, we fear that the general ban on judges from speaking to the media and the restrictions on interaction with international bodies, embassies and associations constitute an extensive restriction on freedom of expression. In this context, we would like to recall that Article 19 of the ICCPR guarantees the right to opinion and expression. In General Comment 34, the Human Rights Committee stated that state parties to the ICCPR are required to guarantee the right to freedom of opinion and expression, including, *inter alia*, "political speech, commentary on one's own affairs and on public affairs, canvassing, discussion of rights, journalism", subject only to admissible restrictions as well as the prohibition of propaganda to hatred and incitement to hatred, violence and

discrimination. Further, the Basic Principles on the Independence of the Judiciary make clear that while judges must preserve their dignity, impartiality, and independence, they also enjoy the right to freedom of expression and association.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the disciplinary measures taken against the Lebanese Association of Judges and its leadership.
3. Please explain what measures have been taken to ensure the respect for freedom of expression and freedom of association of judges in Lebanon.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

## Annex

### Reference to international human rights law

In relation to the above-mentioned allegations, we would like to refer your Excellency's Government to articles 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Lebanon on 3 November 1972, which guarantee the rights to freedom of opinion and expression and to freedom of association.

We would like to draw your Excellency's Government's attention to article 19 of ICCPR which guarantees the right to freedom of opinion and expression and states that any restriction on the right to freedom of expression must be: (i) provided by law; (ii) serve a legitimate purpose; and (iii) be necessary and proportional to meet the ends it seeks to serve. The Human Rights Committee has affirmed that "States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression" (para. 23 of the General Comment No 34 of CCPR). Attacks on a person done because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrests, are incompatible with article 19 (para. 23 of the General Comment No 34 of CCPR). Moreover, the Human Rights Committee made it clear that "It is not compatible with article 19 paragraph 3, for instance, to invoke such laws to suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information" (Ibid. para. 30).

We also recall Article 22 of the ICCPR, which protects the right to freedom of association with others. As stated in a report by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, States not only have a negative obligation to abstain from unduly interfering with the rights of peaceful assembly and of association but also have a positive obligation to facilitate and protect these rights in accordance with international human rights standards (A/HRC/20/27, para. 66; and A/HRC/29/25/Add.1).

In addition, the Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, establish that all governmental and other institutions must respect and conform to the independence of the judiciary (principle 1) and that "[n]o undue or unwarranted interference shall be made with the judicial process" (principle 3). In addition, in a 2009 report to the United Nations Human Rights Council, the mandate on Independence of Judges and Lawyers recalled that "[t]he principle of the separation of powers, together with the rule of law, are key to the administration of justice with a guarantee of independence, impartiality and transparency" (A/HRC/11/41, para. 18).

The Basic Principles on the Independence of the Judiciary also provide that, "In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the

impartiality and independence of the judiciary” (principle 8).

We would also like to recall the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (A/RES/53/144), which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels (art. 1 and 2). In addition, the declaration highlights the right of all persons to form, join and participate in non-governmental organizations, associations and groups, and to communicate with non-governmental or intergovernmental organizations (art. 5 (b) and (c)).

Finally, we would like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.