

محامون يرأسون صندوق النقد الدولي (IMF): تمويل الدولة من قبل مصرف لبنان غير قانوني، ويهدد مصير أموال المودعين

بتاريخ ٢٠٢٢/٢/٧، أرسل المحامون البروفسور نصري أنطوان دياب، والاستاذ سليم المعوشي، والاستاذ رمزي هيكل، والدكتور عبده جميل غصوب، والاستاذ هادي خليفه، والاستاذ أسعد نجم، والاستاذة ماري ضو، والاستاذ موسى خوري، والنقيب السابق الدكتور ملحم خلف، كتاباً الى صندوق النقد الدولي (IMF) بشخص المدير ورئيس البعثة في منطقة الشرق الأوسط Ernesto Ramirez-Rigo، المعني بالتفاوض في الملف اللبناني.

وقد تضمن هذا الكتاب ملخصاً باللغة الانكليزية للدراسة التي كان المحامون قد نشروها بتاريخ ٢٠٢٢/٢/١ في جريدة "النهار" حول *عدم قانونية إستمرار مصرف لبنان في تمويل الدولة* مع نسخة عن الدراسة باللغة العربية، لما لهذا الموضوع من أهمية بالغة ولخطورة تداعياته ان على الاقتصاد بشكلٍ عام او على أموال المودعين في القطاع المصرفي بشكل خاص.

وقد ذكر المحامون ان قانون النقد والتسليف، وهو النص التأسيسي لمصرف لبنان، وضع مبدأ واضحاً وصريحاً مفاده ان مصرف لبنان لا يمنح قروضاً للقطاع العام؛ كما وانه يعود للدولة تغطية خسارات المصرف المركزي وليس العكس؛ وان المساس بالاحتياطي الالزامي ممنوع خارج الغاية التي أنشئ من أجلها (وهذه الغاية ليست تمويل الدولة والقطاع العام)؛ وذلك حفاظاً على الأموال الموجودة في القطاع المصرفي العائدة للمودعين.

**International Monetary Fund**

**Mr. Ernesto Ramirez-Rigo**

IMF Mission Chief for Pakistan, Middle East and Central Asia

1900 Pennsylvania Avenue NW

Washington, D.C. 20431

United States

Beirut, February 7, 2022

by email & DHL

Mr. Director,

**Re: Legal Opinion on the Illegality of Central Bank of Lebanon's Funding of the State**

At a time when Lebanon is negotiating with the International Monetary Fund, the pattern of free spending by the Lebanese State of funds that are sourced quasi-exclusively from Central Bank ("BDL") and *in fine* from ***the remainder of the depositors' money with the commercial banks***, in the absence of any reform, continues unrestrained.

In the light of the above, ***we, Lebanese lawyers and legal academics, have drafted an opinion establishing that BDL is not allowed to finance the State and the public sector, except in the scope of very limited circumstances and under very restrictive conditions. We remit you attached the summary of this opinion (published in Arabic language in the Lebanese daily "An Nahar" on February 1<sup>st</sup>, 2022), and we present it as follows:***

1- The Code of Money and Credit of 1963 (the "Code"), which is the founding text of BDL, poses as a general principle that BDL does not grant loans to the public sector (Article 90); and that in exceptional circumstances it can choose (but is not compelled) to do so only if several technical conditions are cumulatively met (Article 91 et seq.)

2- Furthermore, the Code expressly qualifies BDL as the bank of the public sector (Article 85). Since the State has ceased its payments (e.g. its decision of March 2020 to stop servicing the Eurobonds), BDL (its bank) should not grant it any new financing, as BDL has the certainty that the State will not be in a position to pay it back; bearing in mind that BDL has the duty to verify that the borrower has the means to reimburse its debt (Article 92, para.3).

3- Besides, according to the Code, it is the State who should cover BDL losses (Article 113), and not the other way around. The State is requesting more funding from BDL when, simultaneously, it talks about huge losses at BDL. The State should thus cover these losses and not ask for more financing that will undoubtedly generate yet more losses.

4- Finally, it seems to be established that BDL has now reached the threshold of its "mandatory reserves", and hence has no more "free money" to spend. These reserves are foreign currency funds that the commercial banks have been forced to deposit with BDL (as per BDL Principal Decision No. 7926 of 2001, based on Articles 76, 77 and 174 of the Code), and that are by nature dedicated to the safety of the banking sector; thus, they cannot be used to finance the State.

Respectfully Yours.

**Prof. Nasri Antoine Diab**

**Me Selim Meouchi**

**Dr. Abdo Ghossoub**

**Me Hadi Khalife**

**Me Assaad Najem**

**Me Ramzi Haykal**

**Me Marie Daou**

**Me Moussa Khoury**

**Dr. Melhem Khalaf, former President of the Beirut Bar Association**

SIGNED & SENT