

***“The rules in force in Lebanon in relation to infrastructure after the end of war”***

**By Dr. Charbel A. Aoun**  
**Attorney at Law**  
**University Professor**  
**Consultant before the International Labor Organization**  
**Managing Partner of Aoun & Associates Law Firm**  
**Email: [charbel.aoun@aounlawfirm.com](mailto:charbel.aoun@aounlawfirm.com)**  
**Web: [www.aounlawfirm.com](http://www.aounlawfirm.com)**

Ladies and Gentlemen,

I am very pleased to have the opportunity to address this forum today. I congratulate and thank the **Bar Association of Rome** and the **European Lawyers Association** on their efforts to raise awareness about the challenges facing the development of infrastructure in all over the world. Many thanks as well to Professor **Venerando Monello**.

The development of infrastructure and economy is critically important for Lebanon. The opening remarks presented by the distinguished speakers provided us with insights about some of the challenges facing the region, and the interventions of my fellow panelists had shed the light on individual country experiences. Allow me to share with you Lebanon's perspective.

After the end of civil war in Lebanon on 1990, Lebanon's new subsequent Governments had a crowded and ambitious agenda related to the development of infrastructure. The Lebanese Government has embarked on a major reformative action plan to modernize the regulatory framework and provide a suitable climate for investment in an efficient legislative environment. New policies have been adopted, and modern laws have been promulgated.

During my presentation, I will focus on three important laws promulgated after the end of war on 1990; such laws are related to foreign investments, foreign real estate acquisitions and anti-money laundering.

#### **1- Foreign Investments:**

In 2001, the biggest thrust in investment promotion came in the form of fiscal incentives and facilitation services instituted through the Investment Development Law 360 and its subsequent applicable decrees. Through law 360, the Lebanese government entrusted the Investment Development Authority of Lebanon- IDAL with the mandate to regulate investment promotion activities in the countries, and grant key investment projects a mix of incentives and fiscal concessions. Under Law 360, IDAL provides investors with comprehensive services throughout their operations in Lebanon starting with the provision of economic, commercial and legal information important for decision-making, through the granting of various types of incentives (fiscal, administrative, labor related, etc...) and the facilitation of procedures required to set-up and operate a project. At the same time, the Authority mediates contacts between entrepreneurs and potential investors (Business Matchmaking service) to support in the expansion of their projects.

## **2- Foreign real estate acquisitions:**

To further build an enabling environment for investment, the government carried out additional key steps, among which was the amendment on 2001 of the law dated 1969 related to the acquisition by foreigners of real estate properties.

- The major amendments entered by virtue of the law on 2001 are the following:
  - Allow for physical persons of Lebanese origins, Arab nationals and foreigners, foreign moral entities and Lebanese companies deemed as foreigners without any prior permit or authorization to acquire on all the Lebanese territory, real estate which surfaces do not exceed three thousand square meters.
  - Allow persons or entities mentioned above to acquire more than 3000 meters after obtaining a prior approval issued by the council of ministers upon motion of the minister of finance.
- What is the impact of the law on the investment?

The ratification of the law has positive impact on the economy:

- Encourage the major Arab and foreign investors to invest and carry on mega investment projects in various sectors namely industry, tourism and agriculture in Lebanon and acquire the needed surfaces for their projects.
- Promote the tourism flow by enabling mainly Arab tourist to acquire their own buildings.
- Enhance the real estate sector and provide job opportunities for Lebanese and reduce the immigration

## **3- Anti-money laundering law:**

The parliament had also enacted a law number 318 dated April 2001 related to anti money laundering.

- Why Lebanon adopted such law?

Lebanon enjoys a banking secrecy system by virtue of the law of September 3, 1956. This law is attracting deposits fund from abroad. According to the law of banking secrecy, managers and employees of the bank are not allowed to disclose any information related to the customer's

account to any person including the state with all its administrations whether it is military, judicial or administrative. According to the law of 1956, the banking secrecy can be lifted only in four cases:

- The written acceptance of the client
- The written acceptance of his heirs
- In case of bankruptcy
- In case of lawsuit involving the client with the bank.

After the end of war in Lebanon, a lot of complaints have been submitted to Lebanon throughout several countries mentioning that the Lebanese banking secrecy system is the only obstacle for fighting money laundering in the region. On June 2000, Lebanon's name was included in the list of non-cooperative countries and territories in the domain of fighting money laundering (also known as blacklist). It was considered that the banking secrecy system has been an obstacle for fighting money laundering.

In 2001, the Lebanese legislature enacted a comprehensive Anti-Money Laundering Law, which reconciles the principles of banking secrecy with the need to comply with international standards. The Law provides for the establishment of a Special Investigation Commission (SIC) whose mandate includes investigating suspected money-laundering offences and deciding to lift the banking secrecy.

The special investigation commission is established at the central bank and it is composed of the governor of the central bank with three other members. Its mandate is to investigate money laundering operations and to monitor compliance with the rules in force. According to the law, any person who undertakes money laundering operations shall be punishable for a period of three to seven years and by a fine not less than 20 million Lebanese pounds. As an example, the SIC report for 2001 declared that banking secrecy has been lifted from 79 cases out of the 103 investigated cases. Accordingly, the name of Lebanon was removed from the black list on June 2002.

- What offences are criminalized under law 318?

Law No. 318 criminalizes illicit proceeds that are derived from the following offences:

- The growing, manufacturing, or trading of narcotics.
- Acts committed by associations of wrongdoers, that are specified by Articles 335 and 336 of the Penal Code, and internationally identified as organized crime.
- Terrorist acts, as specified in Articles 314, 315 and 316 of the Criminal Code.

- To finance or to contribute to the financing of terrorism, terrorist acts, or terrorist organizations, in accordance with the concept of terrorism as defined in the Lebanese Penal Code.
  - Illegal arm trade.
  - The offences of stealing or embezzling public or private funds or their appropriation by fraudulent means, counterfeiting, or breach of trust, incumbent on banks, financial institutions, and institutions listed in Article 4 of this Law, or falling within the scope of their activities.
  - Counterfeiting money, credit cards, debit cards or charge cards, or any official document or commercial paper, including checks."
- Where does money laundering occur?

Money-laundering operations may occur in any business especially:

- Banks
  - Other financial institutions (insurance, mutual funds, etc.)
  - Money exchange firms
  - Antique dealers
  - Real estate concerns
  - Jewelry dealers
- What is the role of the SIC?

The role of the Special Investigation Commission on fighting money laundering is to apply the laws and regulations in force. This is done by fostering interagency and global cooperation for fighting domestic and international money-laundering crimes.

The SIC investigates reported suspicious transactions, with a proactive approach in applying the provisions of Law 318. Cases considered by the SIC as money laundering are deferred to the judicial authorities and to other concerned parties, as specified in the said law. Consequently, banking secrecy is lifted on the accounts involved.

- What are the warning signs of Money Laundering?
  - Consecutive transactions with total exceeding the threshold limit.
  - Unjustifiable account activity concerning the size and frequency of transactions.
  - Frequent deposits followed by frequent withdrawals.
  - Exchanging large amounts of small denomination bills for large denominations bills (same or different Currency)
  - Requests for wire transfers or bankers checks in exchange for currency.
  - High volume of bankers' or travelers' checks deposited into an account with no justifiable reasons.
  - Maintaining large number of accounts not commensurate with the type of business.
  - Cashing checks earned from gambling.

I closing, I would like to reiterate the need to join our efforts to come up with proposed steps to improve the investment climate in Lebanon. I am sure that our discussions today will provide with illuminating insights about proposed steps to improve the country, and open new prospects for joint cooperation between Europe and MENA countries more specifically Lebanon.

Thank you.