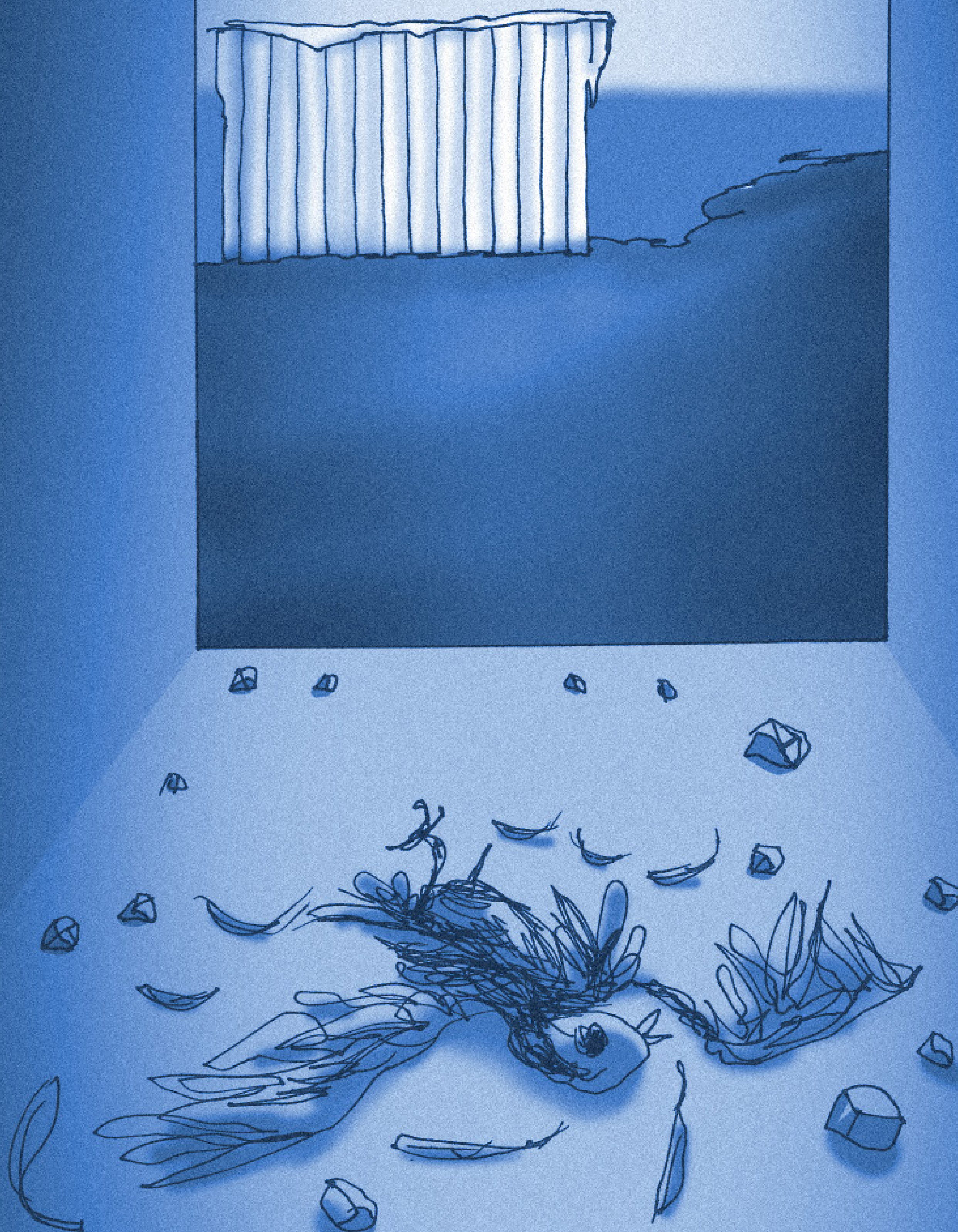


**A Legal Guide**

# **for Victims of the Beirut Port Blast**

**of August 4, 2020**





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# introduction

August 4, 2020 will remain etched in the consciousness of our nation for decades to come. The explosion at the Port of Beirut was not an unfortunate accident, but the consequence of intentional acts which led to catastrophic destruction. The blast took lives, injured bodies, and damaged homes, schools, hospitals, and government buildings. Naturally, the massacre triggered a movement, not simply to defend the rights of its victims, but the right of Lebanese society as a whole to a state capable of ensuring the safety, security, and dignity for present and future generations.

## **Why this guide?**

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This guide is designed for victims of the Beirut Port blast. Due to the multifaceted collapse of the Lebanese state and its failure to properly inform and advise victims of their rights, the Legal Agenda released this guide to provide victims with the basic legal information they require to secure their rights.

# What does it include?

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This guide focuses on the rights that will require sustained effort to realise and to overcome obstacles. The guide outlines the general principles that underlie the rights of all victims of the August 4 blast, then addresses the central rights being claimed by the victims' movement in four separate sections:

## 1 Truth and Justice

Outlines the course of the investigation and trial process before the Court of Justice and explains how victims may become parties to the trial, guaranteeing their right to obtain both truth and justice.

## 2 Reconstruction

Provides an overview of the Lebanese state's plan to protect areas damaged in the blast, and the protections afforded to residents to guarantee their swift return to their places of residence.

## 3 Compensation

Outlines the compensation that victims can demand for damages sustained by the blast, as well as the mechanisms for accessing

compensation currently adopted by Lebanese authorities.

#### **4 Victims' associations**

Explains the aims and possible forms of victims' associations.

The guide also includes a Useful Contacts section to facilitate access to official agencies and other relevant organisations.

## **Methodology**

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The guide provides a legal framework for the rights of victims and an overview of possible legal issues pertaining to achieving justice, reconstruction, compensation, and the formation of associations. It attempts to clarify and explain the relevant laws so that everyone involved can understand and benefit from them.

In preparing this guide we have relied on the monitoring and research work of the Legal Agenda team concerning the work of Parliament, the Judicial Investigator, and the various ministries and government departments, as well as the legal needs of the victims and their movement. In addition to our legal research, we have benefitted from our ongoing collaboration with Public Works, The Lebanese Union for People with Physical Disabilities, and Ruwad Al Hukouk.



# **General Principles Concerning the Rights of Victims of the Blast**

## **In this section**

- 1 The right to dignity, equality and freedom from discrimination**
- 2 The right to access justice and equity**
- 3 The right to reparations**



## Basic rights violated by the blast

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The blast violated several basic rights enshrined in international conventions, in particular the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights:

- The right to life, the right not to have one's life put at risk, and the right to personal security.
- The right to physical safety and protection from torture and inhuman and degrading treatment.
- The right to enjoy the highest standards of physical and psychological health.
- The right to work and to safe and healthy working conditions.
- The right to the security of private property.
- The right to accommodation, the provision of shelter, and protection from forcible displacement.<sup>[1]</sup>

## **Rights that must be respected in order to ensure equity and restitution for the victims**

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### **1 The right to dignity, equality and freedom from discrimination**

In its response to the blast, the Lebanese state must respect the fundamental rights of the victims, particularly in regard to their right to access to justice, compensation and aid. The most important of these rights are:

- The right to dignity.<sup>[2]</sup>
- The right to equality and freedom from discrimination.<sup>[3]</sup>
- The fundamental rights of victims, which are a set of rights enshrined in the Lebanese constitution and international conventions on personal rights, most significantly:
  - The right to life and to physical safety.
  - The right to information, particularly the right to equitable access to information, legal proceedings and compensation.<sup>[4]</sup>
  - The right to privacy.

## Rights that must be respected in order to ensure equity and restitution for the victims

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- The rights to freedom of expression, freedom of assembly, and freedom of association.
- Rights particular to certain classes of victim such as the missing and their dependents, the internally displaced, and the disabled.

### 2 The right to access justice and equity

The Lebanese state must guarantee the right of victims to justice and equity, with the aim of holding those responsible for the blast accountable and compensating victims for the harm they suffered. This includes the following rights:

- The principle that those responsible must be held accountable.
- The right to remedy by the courts.<sup>[5]</sup>
- The right to a fair trial. This right covers the administrative treatment of cases and appeals brought before the courts by the victims, as well as the adjudicative procedures followed by the courts. It consists of the following rights:<sup>[6]</sup>
  - The right to an independent and fair tribunal.



## Rights that must be respected in order to ensure equity and restitution for the victims

- The right to a public trial.
  - The right to legal aid.<sup>[7]</sup>
  - The right to appeal.
  - The right of the victims to participate in the trial.<sup>[8]</sup>
- The right to receive a judgement and to have it enforced within a reasonable timeframe.<sup>[9]</sup>

### 3 The right to reparations

The Lebanese state must guarantee the right of the victims to reparations and compensation, which consists of the following rights:

- The right to full and fair compensation for harm.<sup>[10]</sup>
- The right to judicial and administrative remedies to demand compensation.<sup>[11]</sup>
- Types of full compensation: in accordance with relevant principles of the United Nations,<sup>[12]</sup> the Lebanese state must provide victims, in a way that is commensurate with the extent of the violations and the particulars of each case, the following full and effective forms of compensation:



## Rights that must be respected in order to ensure equity and restitution for the victims

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- **Restitution**: Material compensation that restores the victim to their pre-accident circumstances, for instance: returning victims to their homes, returning their property, and returning them to work.
  - **Compensation**: Compensation in kind for any damages that can be valued in monetary terms.
  - **Rehabilitation**: Medical and psychological care as well as access to legal and social services.
  - **Recognition and satisfaction**: This includes the investigation of events and the full and public disclosure of the truth, as well as public apologies that include an admission of responsibility for events, honouring and keeping the memory of victims alive, and setting up memorials.
  - **Guarantees of non-repetition**: Taking necessary protective measures through changes to the law and relevant practices in order to avoid a repetition of the disaster.
- National compensation schemes.<sup>[13]</sup>

## endnotes

- [1] The Guiding Principles on Internal Displacement, a report by the UN Secretary-General's Special Representative on Internally Displaced Persons, Francis M. Deng submitted pursuant to UN Human Rights Commission resolution 1997/39
- [2] Articles 1 and 22 of the Universal Declaration of Human Rights
- [3] Articles 2 and 7 of the Universal Declaration of Human Rights, articles 2 and 26 of the International Covenant on Civil and Political Rights, article 2 of International Covenant on Economic, Social, and Cultural Rights, and article 3 of the Arab Charter on Human Rights
- [4] Articles 19 of the Universal Declaration of Human Rights, Article 19 of the International Covenant on Civil and Political Rights, Article 1 of the Access to Information Act, and Article 21 of the Convention of the Rights of Persons with Disabilities
- [5] Article 8 of the Universal Declaration of Human Rights
- [6] Article 10 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights; Articles 12 and 13 of the Arab Charter on Human Rights

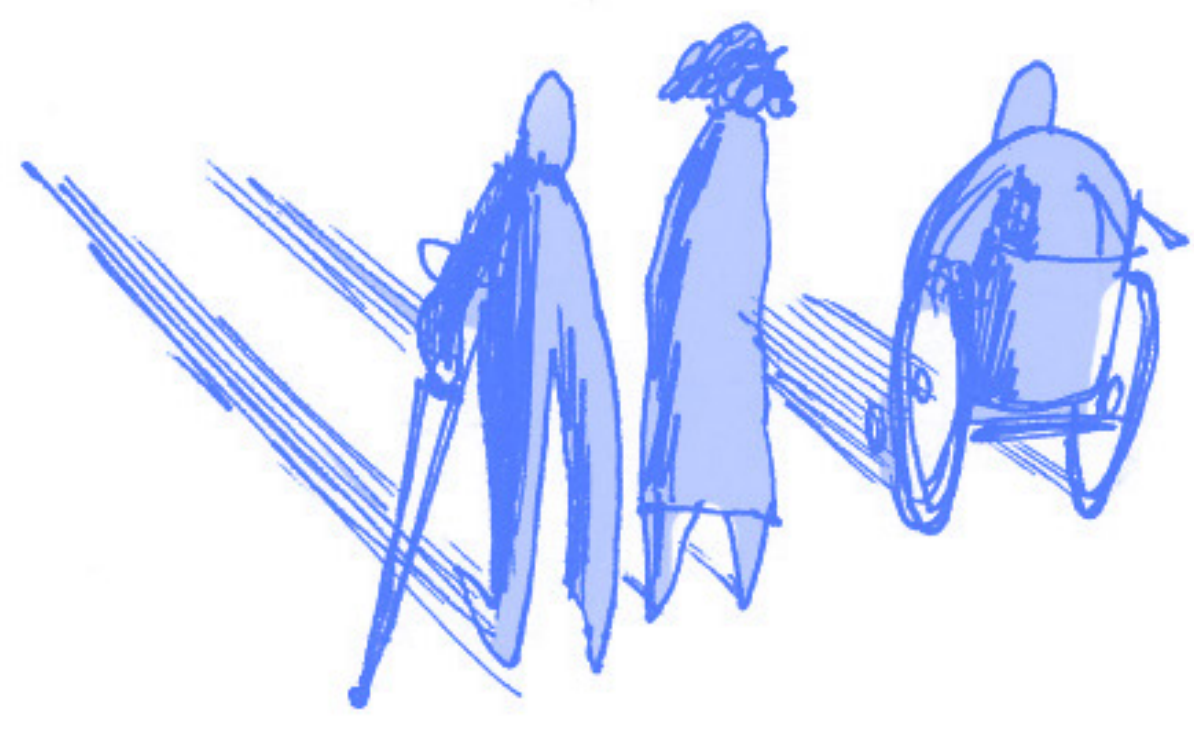
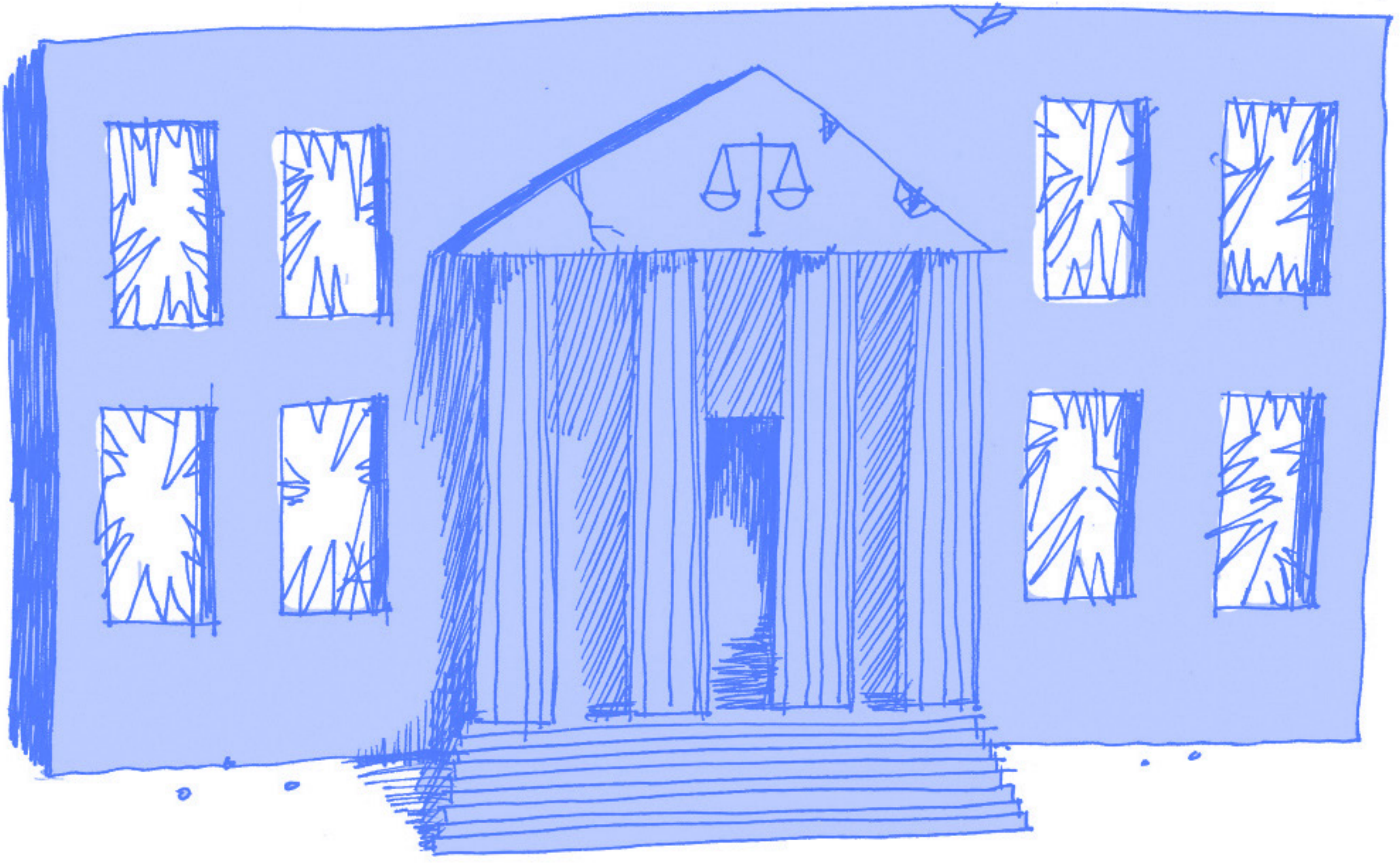
## endnotes

- [7] Article 11 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights; Article 240 of the Code of Criminal Procedure; Articles 1-61 of the Legal Practice Act
- [8] General comment 32 on Article 14 of the International Covenant on Human Rights:
- [9] Article 10 of the Universal Declaration of Human Rights; Article 14 of the International Covenant on Civil and Political Rights; General comment 32 on article 14 of the International Covenant on Human Rights; Article 6, paragraph 1 of the European Convention on Human Rights; Section A, paragraph 6 of the Annex to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (UN General Assembly Resolution 34/40, 1985); Paragraph 17 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN General Assembly Resolution 60/147, 2005)
- [10] Articles 122 and 134 of the Obligations and Contracts Act

## endnotes

- [11] Paragraphs 15 and 16 of general comment 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant; Paragraphs 11 and 12 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN General Assembly Resolution 60/147, 2005)
- [12] Paragraphs 18 and 23 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN General Assembly Resolution 60/147, 2005)
- [13] Paragraphs 15 and 23 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN General Assembly Resolution 60/147, 2005)





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# 1

## The trial before the Court of Justice

### In this section

- 1 **What is the Court of Justice and is it able to guarantee a fair trial?**
- 2 **Who should face trial in the case of the Beirut Port blast, and on what grounds?**
- 3 **What procedures should be followed during the investigation and trial?**
- 4 **How can victims participate in the investigation and the trial?**



## **Legal Agenda's Position**

### **What justice do we want for the victims?**

- A trial which leads to the truth regarding the Beirut Port blast.
- A trial which holds accountable senior state officials responsible for the blast.
- A trial conducted by a Lebanese court that is independent, neutral, and not subject to political manipulation and intervention.
- A fair trial which guarantees the full participation of the victims.
- A fair trial which guarantees the accused the right to defend themselves.

## **1 What is the Court of Justice?**

On August 11, 2020, the Council of Ministers referred the case of the Beirut Port blast to the Court of Justice.[1] This raises the questions of what is the Court of Justice, and is it able to guarantee a fair trial for both the accused and the victims?

## 1.1 An Exceptional Criminal court

- **An exceptional court:** The Court of Justice is an exceptional criminal court, created in 1923 during the French Mandate. It is regarded as an exceptional court for the following reasons:
  - It only hears cases referred by the Council of Ministers
  - The Judicial Investigator is appointed following the referral of the case to the court contrary to regular offences
  - It is separate from both the ordinary or military courts and thus may try civilians and members of the military alike
  - It follows different procedural rules to that of the ordinary courts. This exceptional status means that the Court of Justice lacks the necessary framework to ensure a fair trial.
- **A politically-constituted court:** The Court of Justice is constituted by political decision, as it only hears cases referred to it from the Council of Ministers by means of a decree, and not through the regular legal procedure. Public prosecutors may



not refer cases to the Court of Justice themselves; but the government selects the case it wants to be heard. Similarly, the Cabinet and the Minister of Justice appoint the judges who sit on the Court of Justice as well as the judge who heads the investigation (the Judicial Investigator), which contravenes the principle of the separation of powers. This structure grants the executive authority discretionary powers in dictating the course of both investigation and trial.

- **A court for serious offences:** The Council of Ministers may refer certain offences to the Court of Justice, most importantly those pertaining to the internal and external security of the state, such as treason, collusion, provoking sectarian strife, terrorism, forming militias, and offences involving the use of firearms and explosives, and the violation of civil rights.<sup>[2]</sup>

## **1.2 A court which does not guarantee a fair trial**

- **The Court of Justice does not provide the necessary conditions to ensure a fair trial:** The constitution and operation of the Court of Justice is

subject to exceptional procedures that do not provide the conditions for a fair trial and are incompatible with the Constitution and the International Covenant on Civil and Political Rights, for the following reasons:

- *The court is not independent:* Despite the fact that the neutrality of a court and its independence from the executive branch (i.e. the government) are fundamental to guaranteeing a fair trial, the Court of Justice is not regarded as an independent body since:
  - ◆ It is the government's decision to refer the case to the Court of Justice.<sup>[3]</sup>
  - ◆ With the exception of the Presiding Judge (who is also the Presiding Judge of the Court of Cassation), the government appoints the court's judges based on the recommendation of the Minister of Justice and with the approval of the Supreme Judicial Council.<sup>[4]</sup>
  - ◆ The Minister of Justice appoints the Judicial Investigator with the approval of the Supreme Judicial Council<sup>[5]</sup> (of which eight of its

ten members are government appointees).

- ◆ There are no fixed criteria for the appointment of the Judicial Investigator, or the judges of the Court of Justice, except that they must be members of the Court of Cassation.
- *The denial of the right to appeal:* None of the decisions made by either the Judicial Investigator or the Court of Justice are subject to appeal,<sup>[6]</sup> even though the right to bring action at two stages is one of the fundamental rights enshrined in the Constitution and is defined as one of the conditions of a fair trial in international treaties:<sup>[7]</sup>
  - ◆ No defendant or plaintiff can appeal the decisions of the Judicial Investigator, including the bill of indictment, which lays out the offences and persons who are to be tried before the court, or orders to detain or release defendants.
  - ◆ No defendant or plaintiff may lodge an appeal against the decisions and rulings issued by the Court of Justice, as the court is the final authority.



- ◆ Since 2005, those tried before the Court of Justice have been able to lodge an objection to court rulings issued in their absence, so that they are able to make a proper defence. In some cases, they are also able to request a retrial.
- ◆ No defendant or plaintiff can appeal the decisions of the Judicial Investigator, including the bill of indictment, which lays out the offences and persons who are to be tried before the court, or orders to detain or release defendants.
  - No defendant or plaintiff may lodge an appeal against the decisions and rulings issued by the Court of Justice, as the court is the final authority.
  - Since 2005, those tried before the Court of Justice have been able to lodge an objection to court rulings issued in their absence, so that they are able to make a proper defence. In some cases, they are also able to request a retrial.

- *Why did the government refer the Beirut Port blast case to the Court of Justice?*
  - ◆ The rationale behind the decision was to prevent the case from being tried in the Military Court (another exceptional court), where civilian plaintiffs would be unable to participate in the trial.
  - ◆ Despite the importance of protecting the victims from being marginalised and ensuring that they would be able to participate in the trial, this excuse is insufficient to justify the government's decision. The Court of Justice, like the Military Court, is an exceptional court which cannot guarantee a fair trial for the plaintiffs and is therefore also unsuitable.

### **Legal Agenda's Comment:**

**Referring the case to the Court of Justice was a strategic error**

- The decision to refer the Beirut Port blast case to the Court of Justice was a strategic error, because it resulted in the case being heard by a court that follows exceptional procedures and does not guarantee

a fair trial. Therefore, it is in contravention with the Constitution and Article 14 of the International Covenant on Civil and Political Rights.

- The lack of fair trial guarantees allows for criticism of any ruling issued by the court. The detention of defendants or those convicted may therefore be considered arbitrary. For example, international bodies have previously regarded the detention of Youssef Shaaban, Samir Geagea and Girgis Khoury, to have been an arbitrary detention, since the Court of Justice decisions are final and not subject to appeal.
- In practical terms, the decision to avoid the Military Court led to replacing that exceptional court with another (the Court of Justice). This resulted in sacrificing not only the rights of the defendants to a proper defence, but also some of the rights of the plaintiffs (such as the right to appeal), in order to ensure the participation of the victims.



- To date, the authorities (or interested political forces) have made no effort to amend the code of procedure for the Court of Justice in order to guarantee a fair trial.

## **2 Who should face trial in the case of the Beirut Port blast, and on what grounds?**

- As of February 18, 2021, the investigation file of the case listed 37 defendants, at least 25 of whom are detained. These include:
  - The Temporary Committee for Management and Investment of the Port of Beirut[9]
  - At least 13 employees of the port administration and customs administration, including Port General Manager, Hassan Koraytem, current Director-General of the Customs Administration, Badri Daher, and his predecessor Shafik Merhi
  - The Director-General of Land and Maritime Transport, Abdel Hafiz Al Kayssi, and Harbourmaster of the Port of Beirut, Mohammed El Mawla

The Director-General of State Security, Major General Tony Saliba, and four officers of the security services operating at the port: one from Military Intelligence (Brigadier General Antoine Salloum), one from State Security (Major Joseph Al Naddaf), and two from General Security (Major Daoud Fayad and Major Charbel Fawaz)

- Five individuals from the company contracted to undertake maintenance work at Warehouse 12, including the contractor, Salim George Shibli, the engineer in charge of the operation, Nayla Al Hajj, and three Syrian nationals employed as labourers
- The owner of the cargo vessel MV Rhosus, Igor Grechushkin, and the ship's captain, Boris Yuri Prokoshev (both Russian), and Jorge Moreira (Portuguese), who owns Fabrica de Explosivos Macambique, the company that ordered the shipment of ammonium nitrate
- Hassan Diab, Prime Minister of the Caretaker Government

- Two former ministers of public works and transport: Ghazi Zaitar (2016–2014) and Yusuf Finjanan (2020–2016)
- Former Minister of Finance, Ali Hassan Khalil (2020–2014)

## 2.1 Liabilities associated with the Beirut Port blast

- **Liabilities:** The most important liabilities in the Beirut Port blast case are the following:

1 *Bringing explosive material into Lebanon:* Liabilities associated with how and why the cargo vessel MV Rhosus was able to enter the Port of Beirut in 2013 and unload its cargo of explosive material (2,750 tons of ammonium nitrate) into Warehouse 12 in 2014, contravening the legal conditions for importing material of this kind.

2 *Keeping explosive material in the Port of Beirut for six years:*

**A** Storing the material in the port: Liabilities resulting from storing explosive material (ammonium nitrate) in port warehouses in contravention of legal prohibitions and storage guidelines.



- B** Preventing the removal of the material from the port: Liabilities resulting from preventing the destruction or removal of the cargo of ammonium nitrate from port warehouses for six years, either by relocating it to more secure warehouses, reexporting it, destroying it, or selling it.
- C** Failure to adequately secure the stored material: Liabilities resulting from the failure to secure the explosive materials in Warehouse 12 in the Port of Beirut, especially considering the ongoing investigation into the theft of part of the stored cargo prior to the explosion, and indicators that a small proportion of the cargo had been detonated on August 4, 2020. The extent to which this failure constitutes a deliberate act, negligence, or participation in a terrorist act or war crime.

**3** *The outbreak of fire in Warehouse 12:*

What were the causes of the fire, and how was it connected to the maintenance and welding work being conducted in Warehouse 12 prior to the explosion? Does this constitute a deliberate act, or simply gross negligence?

#### 4 *The inadequate provision of emergency services:*

Liabilities resulting from a failure to manage firefighting and other emergency services following the outbreak of the fire and the explosion, and the alerts given to public, including port workers, firefighting crews and residents in neighbourhoods surrounding the port.

#### 5 *Abuse of power:*

Liabilities connected with the exploitation by public officials of their authority and influence, either by commission or omission, in order to secure profits or benefits for themselves or other persons through the introduction of the ammonium nitrate into Lebanon, its storage in the port for six years, the prevention of its destruction or removal, inadequate measures to secure it, its sale or theft, and the outbreak of fire in Warehouse 12.

- **Liable parties:** Given the liabilities mentioned above, it is necessary to investigate the extent to which parties in this case are liable, particularly in light of information that the majority of official Lebanese agencies were

aware of the storage of ammonium nitrate in the port and had failed to take the necessary measures to remove it. The most important of these parties are:

1 *The Port Authority of Beirut*

2 *The Customs Administration*

3 *The Ministry of Public Works and Transport*

4 *Lebanese security agencies:*

Including all agencies with offices in the port and persons charged with running these offices or with specific duties within the port, as follows:

- The Lebanese Army and its Intelligence Directorate
- The General Directorate of State Security
- The General Directorate of General Security

5 *Other Lebanese administrative agencies:*

Other Lebanese administrative agencies:

- The Ministry of Finance and the Higher Council of Customs



- The Ministry of National Defence
- The Ministry of Interior
- The Ministry of Justice
- The Council of Ministers
- The Prime Minister
- The Supreme Defence Council
- The President of the Republic
- The Governor of Beirut

#### 6 *Lebanese judicial authorities:*

Lebanese judicial authorities:

#### 7 *Other Lebanese and foreign agencies:*

Including all foreign states, foreign public officials, companies, or any legal persons under private law whose criminal intent in their involvement—by whatever means—in the acts referred to above can be proved, particularly the introduction of explosive material into Lebanon and its illegal storage, the illegal appropriation and use of a part of this material, and the outbreak of fire in Warehouse 12. The identification of these parties requires the investigation to be expanded to examine how

the ammonium nitrate reached Lebanon, what subsequently became of parts of the cargo, and how the fire broke out.

## **2.2 Potential offences in the Beirut Port blast case**

- The offences that will be examined by the Court of Justice will be listed in the bill of indictment issued by the Judicial Investigator.
- The Office of Public Prosecutor at the Court of Cassation brought the following charges before the Judicial Investigator:
  - Intentional homicide (Article 547 of the Penal Code, based on Article 189 of the same code)
  - Intentional harm (Articles 556 ,554 and 557 of the Penal Code, based on Article 189 of the same code)
  - Starting a fire, both intentionally (arson) and through negligence (Articles ,593 ,590 ,589 ,588 ,587 595 of the Penal Code)
  - Destruction of public institutions and private property (Articles 595 and 733 of the Penal Code)

- Abuse of authority and influence by a public official, negligence towards official responsibilities, the refusal by a public official to execute a legal request, and the contravention by a member of military of their orders and instructions (Articles ,373 ,371 374, and 377 of the Penal Code, Article 166 of the Code of Military Justice, and Articles 144 and 205 of the Customs Law)
- Bringing explosive materials into Lebanon (Articles 45 and 78 of the Arms and Ammunition Law)
- An act of terrorism (Article 314 of the Penal Code and Article 6 of the law issued on 1958/1/11)
- Money laundering and funding terrorism (Law 2015/44)
- The most serious penalty for those offences listed above is twenty-years hard labour. However, if the court finds the defendants guilty of terrorism, the death penalty can be imposed.



## **Legal Agenda's Comment: Offences not listed by the Public Prosecutor at the Court of Cassation**

- Though the offences listed by the Public Prosecutor at the Court of Cassation covers some of the areas of liability outlined above (i.e. bringing explosive materials into Lebanon, storing them in the port, failing to remove them, the failure to adequately secure them, and the outbreak of fire) it remains incomplete as it lacks the following:
  - Offences of intentional homicide committed for an ignoble motive or to obtain a benefit or through the use of explosive materials (Articles 548 and 549 of the Penal Code), or manslaughter (Articles 550 of the Penal Code), or the intentional setting of a fire resulting in death or permanent injury to any person (Article 591 of the Penal Code)
  - Offences committed by public officials involving the use of influence (Article 357 of the Penal Code), embezzlement of public funds (Article 359 of

the Penal Code), and obtaining personal benefit through administrative processes contrary to the duties of their profession (Articles 364 and 376 of the Penal Code)

- Offences of funding terrorism (Article 316 bis of the Penal Code) and purchasing explosive materials or products used in their manufacture (Article 5 of the law issued on 1958/1/11)
- The offence of denying assistance to any person in danger (Article 567 of the Penal Code)
- The Public Prosecutor at the Court of Cassation makes no mention of any liabilities resulting from the failure to provide emergency aid following the outbreak of the fire and the explosion.
- It is important to fully understand the extent to which organised criminal groups may have been involved in the case.

## 2.3 Immunity

- After the Judicial Investigator decided to interrogate the Prime Minister of the Caretaker Government, Hassan Diab, and former ministers, as defendants, several of these officials argued that the law grants them immunity from prosecution by the Court of Justice or the Ordinary Courts. They claimed they could only be tried by the Supreme Council for the Trial of Presidents and Ministers, which is a body that has never convened since it was established in 1990. This therefore raises questions regarding the extent of these immunities.

- **The President:**

It is not possible to prosecute the President of the Republic before the Court of Justice.<sup>[10]</sup> Consequently, the president may only be brought to trial for a violation of the constitution, high treason, or any other crime, before the Supreme Council, having first been accused by Parliament in accordance with the Constitution. The Judicial Investigator may hear the President's testimony if necessary, and this should take place in the offices of the presidency.<sup>[11]</sup>



## ■ **The Prime Minister and ministers:**

In accordance with the rulings of the Court of Cassation, the Ordinary Courts and the Court of Justice may prosecute prime ministers and ministers in the following cases:

- If Parliament fails to accuse them with high treason or failure to perform their duties, which are offences related to the political nature of their work,<sup>[12]</sup>
- If they have committed other offences during the course of their work, such as ordinary offences or the abuse of power or influence. These are all charges in the Beirut Port blast case.<sup>[13]</sup>

## ■ **Members of Parliament:**

Immunity for parliamentary deputies is not absolute but temporary and limited to the convening of parliamentary sessions.<sup>[14]</sup>

## ■ **Lawyers:**

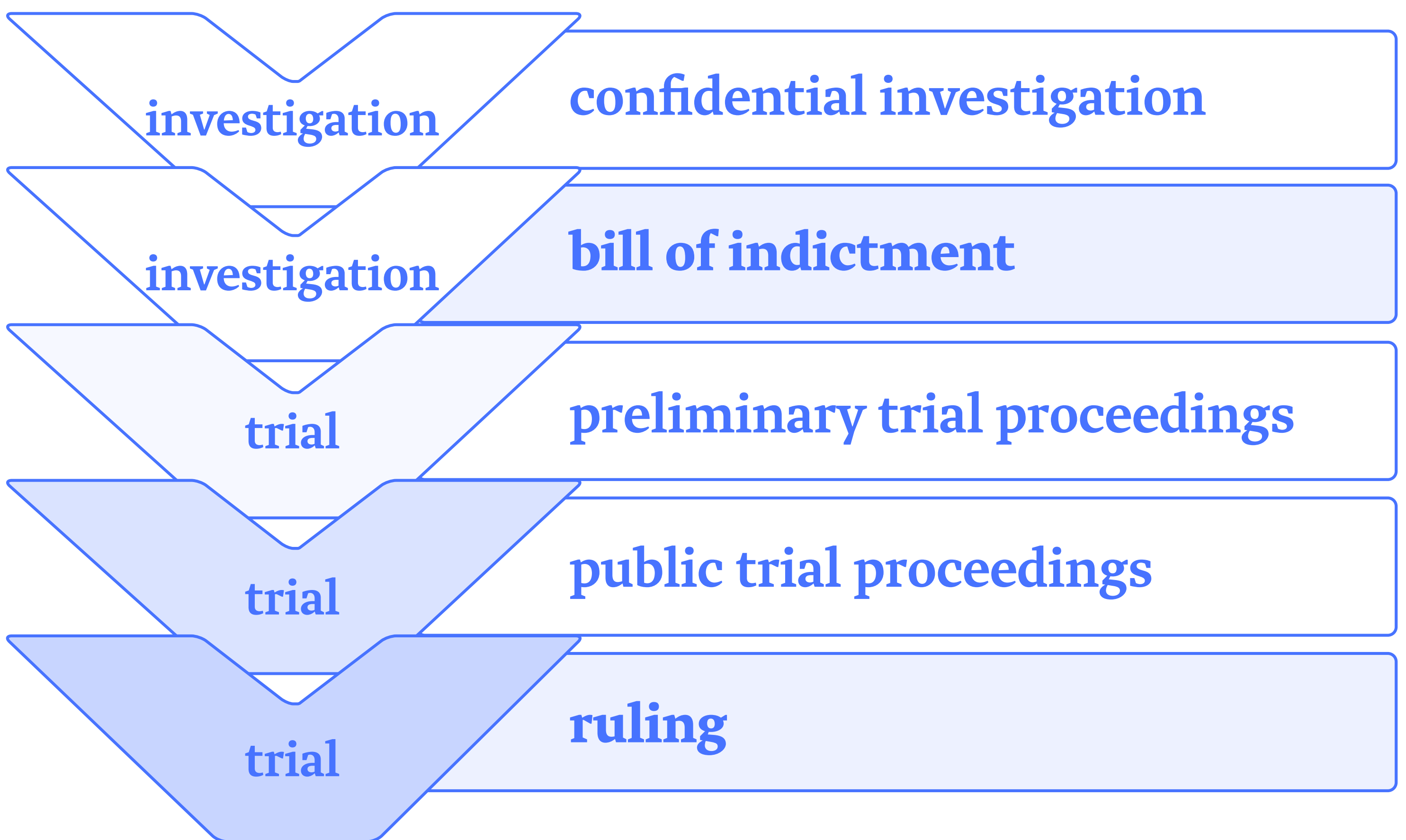
Immunity for lawyers is not absolute but is limited to the practice of their profession.<sup>[15]</sup>

## **Legal Agenda's Comment:**

### **Limiting ministerial immunity is a priority for Lebanese society**

- Limiting the immunities granted to prime ministers and ministers is one of the most pressing rights issues facing Lebanon, as it represents a significant obstacle to effective accountability and to exposing corruption.
- Decades of legal impunity for prime ministers and ministers facilitated the spread of corruption within public institutions and laid the groundwork for the circumstances which led to the port blast.
- It is therefore vital to adopt an interpretation of the Constitution that restricts ministerial immunity and strengthens the mechanisms for holding ministers accountable. This legal position is supported by the Court of Cassation, the Lebanese Judges Association in its August 2020 ,15 statement, and the Beirut Bar Association in its November 2020 ,14 statement.

### 3 What procedures should be followed during the investigation and trial?



#### 3.1 The Structure of the Court of Justice

The court is comprised of three bodies:

##### 1 *The Judicial Public Prosecutor*

- This is a judge who represents the public interest and initiates the proceedings. They are a party to the case and not a member of the court.
- The Public Prosecutor at the Court of Cassation (or any person acting in their stead) performs the duties of public prosecutor before the Court of Justice. At the time of writing, Judge Ghassan Oueidat is acting in this capacity.



- Before the appointment of the Judicial Investigator, Judge Ghassan Oueidat conducted the initial investigations into the case and oversaw the investigation of the Government Commissioner to the Military Court (Judge Fadi Akiki) despite the clear conflict of interest.
- Following the appointment of the Judicial Investigator, the Public Prosecutor at the Court of Cassation filed charges against at least 25 persons to the Judicial Investigator for the offences listed above.
- On December 14, 2020, Judge Oueidat recused himself from the case because of a familial connection between himself and former minister Ghazi Zaitar, after the Judicial Investigator summoned the latter for questioning as a defendant in the case.
- Victims' complaints are submitted to the Public Prosecutor at the Court of Cassation who refers them to the Judicial Investigator.

## Legal Agenda's Comment:

### The Public Prosecutor at the Court of Cassation's conflict of interest

Judge Ghassan Oueidat should have recused himself from the case of the Beirut Port blast from the outset for the following reasons:

- He was personally aware of the presence of ammonium nitrate in Warehouse 12 and gave no order to have it destroyed or moved to a secure location, even though the law requires it. He managed an investigation into the theft of ammonium nitrate from the port a few months before the blast, based on a referral by the General Directorate of State Security. Despite the suspicion that theft had taken place, he gave no order to have the ammonium nitrate removed and merely gave instructions to repair a breach in the warehouse wall, which may have been a cause of the blast.
- He is related to former Minister of Public Works and Transport, Ghazi Zaitar (who is married to Judge Oueidat's sister). Zaitar was a suspect from the outset of the

case: the Ministry of Public Works was responsible for requesting the admission of the MV Rhosus into the Port of Beirut in 2013 and unloading its cargo in 2014 when Zaitar was minister. The Judicial Investigator had questioned him as a witness before summoning him as a defendant.

## 2 *The Judicial Investigator*

### ■ Role:

The Judicial Investigator is the judge who runs investigations into the case, questions suspects and witnesses, and oversees the work of relevant experts. Following the conclusion of the investigations, the judge issues a bill of indictment which names the persons who will be tried before the Court of Justice.

### ■ Appointment:

- The Judicial Investigator is appointed by the Minister of Justice with the approval of the Supreme Judicial Council.
- On August 13, 2020 the Minister of Justice in the caretaker Government appointed Judge Fadi Sawan as Judicial Investigator in



the Beirut Port blast case. At the time of his appointment he was Investigative Judge to the Military Court (since 2009) and Acting First Military Investigative Judge (since 2018)

- On February 19, 2021, after the Court of Cassation issued its decision to transfer the case to another judge, the Minister of Justice in the Caretaker Government appointed Judge Tarik Bitar as the new Judicial Investigator in the case. At the time of his appointment he was Head of the Criminal Court in Beirut (since 2017).
- [The transfer of the case due to legitimate doubt:](#)
  - The law allows any party to the case to request the transfer of the case from one judge to another or one court to another for a number of reasons including legitimate doubts over the neutrality of judge or court.
  - On December 16, 2020, two of the defendants (former Minister of Public Works and Transport, Ghazi Zaitar, and former Minister of Finance, Ali Hassan Khalil)

requested the case be transferred from Judge Fadi Sawan to another judge and asked that investigations be halted while awaiting ruling of their transfer request.<sup>[16]</sup> This transfer request was filed on grounds of legitimate doubts over the neutrality of Judge Sawan.

- On January 11, 2021, the Court of Cassation (the body empowered to hear requests to transfer the case) rejected the request to halt the investigations.
- On February 18, 2021, the Court of Cassation decided to transfer the case from Judge Fadi Sawan to another judge, on grounds of legitimate doubt.<sup>[17]</sup> The court based its decision on two causes of doubt regarding Judge Sawan's neutrality. These being:
  - ◆ His stated position that he would not consider any immunities for those charged in the case, which was taken as evidence that he would violate the right to immunity for members of parliament and lawyers.
  - ◆ Evidence that he was personally affected by the blast (material damage to his house) which

meant it would be difficult for him to remain neutral.

- On February 19, 2021, the Minister of Justice appointed Judge Tarik Bitar as Judicial Investigator with the agreement of the Supreme Council of the Judiciary.

### 3 *The Court of Justice:*

- The Court of Justice provides the final ruling in the case, and therefore will determine which persons were responsible for the blast, impose penalties on them, and set the value of the compensation the victims will receive.
- The court is constituted of five judges from the Ordinary Courts: First Presiding Judge of the Court of Cassation (Judge Souheil Abboud) and four judges of the Court of Cassation appointed by the Council of Ministers based on the recommendation of the Minister of Justice and with the approval of the Supreme Judicial Council.
- In 2018, the Council of Ministers appointed nine judges to the Court of Justice.<sup>[18]</sup>



## 3.2 Parties represented during the investigation and trial

Title	Persons	Involved in investigation	Involved in trial proceedings <sup>v</sup>
<b>The Public Prosecutor at the Court of Cassation / The Judicial Public Prosecutor</b>	Judge Ghassan Oueidat (until 14/12/2020) Judge Ghassan Khoury	Yes	Yes
<b>Judicial Investigator</b>	Judge Fadi Sawan (until 18/2/2021) Judge Tarik Bitar	Yes	No
<b>Clerks to the Judicial Investigator</b>	Legal assistants Fadi Ibrahim and Tatania El Masry	Yes	No
<b>Presiding Judge of the Court of Justice</b>	Judge Souheil Abboud	No	Yes
<b>Judges of the Court of Justice</b>	Four judges of the Court of Cassation	No	Yes
<b>Individual plaintiffs and their counsels</b>	More than 1,000 individual plaintiffs, the majority represented by the Beirut Bar Association	Yes, with the exception of hearings for witnesses	Yes

Title	Persons	Involved in investigation	Involved in trial proceedings
<b>Defendants/accused and their counsels</b>	37 defendants including 25 of which are detained	Yes, with the exception of hearings for witnesses and the questioning of other defendants	Yes
<b>Persons with financial power of attorney, guarantors, and heirs</b>	Unclear	Yes, with the exception of hearings for witnesses	Yes
<b>Witnesses</b>	More than 50 witnesses	If summoned	If summoned
<b>Non-plaintiff victims</b>	-	No	No, (sessions are public)

### **3.3 Procedures followed during the investigation by the Judicial Investigator**

- **The purpose of the investigation:**

The primary purpose is to uncover the truth about the port blast. To this end, the Judicial Investigator assembles evidence connected with the blast to understand how the blast happened and who is suspected of involvement.

The investigation ends when the Judicial Investigator issues a bill of indictment which refers the case to the Court of Justice.

The Judicial Investigator does not make convictions, they only accuse persons suspected of involvement. The Judicial Investigator brings charges forward and the Court of Justice makes its ruling.

- **The proceedings of the investigation:**

The Judicial Investigator follows a set of written and confidential procedures in order to uncover the truth around the blast. They have the right to question any person suspected of involvement in the blast and any related offences.

### **Legal Agenda's Comment:**

#### **Evidence tampering at the crime scene**

Following the explosion on August ,4 2020, legal authorities failed to take rapid measures to protect the crime scene and prevent any tampering with evidence, in contravention of the law and best practice.



## ■ The confidentiality of the investigation:

Lebanese law requires the confidentiality of all investigations undertaken by the Judicial Investigator.<sup>[19]</sup>

### — *What does this confidentiality entail?*

- The public has no right to attend sessions of the investigation or to review the transcripts and files.
- The confidentiality does not apply to parties to the case (defendants, plaintiffs, and investigators) who have the right to access all proceedings of the investigation, but they are prohibited from sharing the information.
- Disseminating information from the investigation, such as the content of transcripts of questioning, expert reports, and documents is prohibited. Publishing them in any form is liable to prosecution.<sup>[20]</sup>

### — *What are the benefits of confidentiality?*

- It allows the judge to conduct the investigation in an impartial manner, free from any intervention or pressure.

- It protects the presumed innocence and the privacy of suspects, and avoids harm to their reputations before the investigation is concluded.

— *What are the drawbacks of confidentiality?*

- Until the bill of indictment is issued the public has no access to the investigations proceedings and therefore is unable to assess its quality or neutrality. At the same time, this confidentiality does not prevent influential actors from accessing information by illegal means.
- Neither the Court of Justice nor the Judicial Investigator have an official spokesperson who can give the public regular updates on the course of the investigation and engage with the victims, the press and other media.

**Legal Agenda's Comment:**

**It is important to keep the public informed about the investigation**

- Those victims who are not parties to the case have the right to know how the investigation is proceeding and have access to information,

however this right conflicts with the principle of confidentiality.

- Given that the Beirut Port blast is a matter of public interest, as it caused extensive damage and harm to members of the public, the judicial authorities should limit the principle of confidentiality so that victims and the general public are able to follow the progress of the investigation, helping build confidence in the seriousness and neutrality of the investigation.
- The judicial authorities must appoint a media spokesperson for the Court of Justice and Judicial Investigator to ensure uninterrupted communication with the victims and the general public.

- **The results of the investigation:**

Following the conclusion of the investigation, the Judicial Investigator refers the file to the Office of the Public Prosecutor to provide its opinion. Following this opinion, the Judicial Investigator issues the bill of indictment.



- **Challenging the decisions of the Judicial Investigator:**

None of the Judicial Investigator's rulings may be challenged including the bill of indictment. This is one of the fundamental reasons why the Court of Justice cannot guarantee a fair trial.

The bill of indictment is the first public decision to be issued in the case. It sets the framework for the trial before the Court of Justice. The bill of indictment cannot be challenged.

### **3.4 Procedures followed during the trial before the Court of Justice**

- **The purpose of the trial:**

The purpose of the trial before the Court of Justice is to hold a public discussion of all the evidence associated with the Beirut Port blast, reach a conclusion of those responsible for the blast, apply penalties to them, and grant compensation to the plaintiffs.

The Court of Justice cannot try any person who is not named on the bill of indictment issued by the Judicial Investigator.

- **Pre-trial proceedings:**

- *The right to examine the file:*

Following the publication of the bill of indictment and its referral to the Court of Justice, all parties to the case are entitled to full access to the contents of the file and to receive a copy. The confidentiality imposed during the investigative process is lifted.

- *Naming witnesses:*

Five days before the first public session, all parties to the case must name their witnesses. These are persons who are able to deliver testimony concerning the case before the court. Each party informs the other parties of their list of witnesses they wish to produce.

- **Trial proceedings:**

- *Public sessions:*

The Court of Justice holds public hearings. The Presiding Judge determines the course of the hearings and can defer sessions.

## — *Pleadings:*

Following the end of the trial proceedings, each individual plaintiff or their counsel, the representative of the Judicial Public Prosecutor's Office, and the counsel of the defendants, make their arguments. Arguments are delivered orally, with each party submitting their demands (i.e. that the defendant be charged or declared innocent, or for compensation).

Sessions of the Court of Justice are public and transparent.

The principle of holding public trials is one of the conditions for a free trial.

### ■ Issuing judgement:

Following the trial, the judges of the Court of Justice meet to issue their final judgement in the case. The ruling may convict, discontinue proceedings or acquit, define the legal penalty for each of the defendants convicted, and lay out the civil liabilities of those convicted, usually in the form of compensation for lost earnings and damage.



## ■ Challenging the judgement:

### — *Appeal:*

It is not possible to appeal a ruling issued by the Court of Justice, one of the fundamental reasons why the court is unable to guarantee a fair trial.

### — *Objection:*

Since 2005, defendants or plaintiffs have been able to object to any judgement issued in absentia and have the Court of Justice retry their case.

### — *Retrial:*

Since 2005, defendants who have received judgements from the Court of Justice can request a retrial if specific legal conditions are met, for instance: if previously unknown documents come to light during the course of the trial which constitute evidence to acquit.<sup>[21]</sup>

The judgement issued by the Court of Justice is final and may not be appealed. If certain conditions are met an objection may be lodged, or a retrial requested.

## 4 How can victims participate in the investigation and the trial at the Court of Justice?

The purpose of victims participating in the trial is to guarantee their right to have their case properly represented before the court, as well as helping victims to recover from the trauma of the incident and the serious violations of their rights.

### 4.1 Becoming a Plaintiff

- The right to bring a civil action to demand compensation:

- Victims who suffered harm from the port blast have the right to bring a civil action and join the lawsuit before the Judicial Investigator and the Court of Justice as an individual plaintiff against the defendants.<sup>[22]</sup>
- The civil action brought by the victims is linked to the public action brought by the Public Prosecutor.
- The purpose of the civil action is to allow the victims' participation in establishing the guilt of the accused and to demand compensation for damage caused.

- In its judgement, the Court of Justice determines the value of the compensation and the persons responsible for paying it.
- There is a 10-year statute of limitation to lodge a complaint. It is preferable to bring a complaint while the case is still under investigation by the Judicial Investigator, but it is possible for victims to join the lawsuit in the period between the publication of the bill of indictment and the start of the trial.<sup>[23]</sup>

- **Appointing counsel:**

It is mandatory for individual plaintiffs to authorise counsel to represent them before the Court of Justice.<sup>[24]</sup> Any complaint must be brought by counsel representing the plaintiff.

**For inquiries on appointing counsel:**

- The Bar Association of Beirut:  
71927333

To register a complaint or seek the advice of the BBA: <https://bbaob.bitrix24.site/>



- Legal Agenda: 01383606 / 78935579 / [info@legal-agenda.com](mailto:info@legal-agenda.com)
- Ruwad Al Hukouk: 03457324 / 01389556 / 01383556 / [frontierscenter@frontiersruwad.org](mailto:frontierscenter@frontiersruwad.org)
- Legal Action Worldwide (LAW): [info@legalactionworldwide.org](mailto:info@legalactionworldwide.org)

## 4.2 The rights of the plaintiff during investigation and trial

Table of actions the plaintiff may take during the investigation and trial

Action	Investigation	Trial
Reading the contents of the case file	With the exception of witness testimony	Obtain a copy of the file
Submitting personal testimony	Yes	The provision of information in accordance with the decision of the court
Bringing cases against persons suspected of involvement in committing the offence	Those charged by the Public Prosecutor at the Court of Cassation or the Judicial Investigator	Those named in the bill of indictment issued by the Judicial Investigator

<b>Action</b>	<b>Investigation</b>	<b>Trial</b>
<b>Attending questioning of defendants/ the accused and directing questions at them through the judge</b>	Yes	Yes
<b>Submitting names of witnesses</b>	Yes	Five days before the start of the trial
<b>Objecting to a witness's testimony being heard</b>	No	If their name does not appear on the list of witnesses
<b>Attending hearings of witness testimony and directing questions at them through the judge</b>	No	Yes
<b>Attending warranted searches and the seizure of evidence</b>	Yes	Yes
<b>Requesting that observations on session reports be recorded in writing</b>	Yes	Yes

<b>Action</b>	<b>Investigation</b>	<b>Trial</b>
<b>Submitting evidence and documents</b>	Yes	Yes
<b>Requesting additional investigations</b>	Yes	Yes
<b>Provide their opinion on requests to release detainees</b>	Within 24 hours of being informed	Within 24 hours of being informed
<b>Submitting requests and briefs</b>	Yes	Yes
<b>Being notified of defendants' briefs and pleas and responding to them</b>	The defendants' pre-trial motions, requests to transfer the case, and applications for the designation of a judicial authority	Yes
<b>Oral arguments</b>	N/A	Yes
<b>Specifying the value of the requested compensation</b>	Yes	Before the conclusion of the trial
<b>Requesting the reopening of an investigation or trial</b>	Requesting that the scope of the investigation be extended	Requesting the reopening of the trial



Action	Investigation	Trial
Attending the reading of the judgement	N/A	Yes
Challenging the rulings of the Judicial Investigator or the Court of Justice	No	Object to a ruling in absentia

- **Mechanism for the participation of victims in the trial:**

To date, neither the Ministry of Justice nor the Supreme Council of the Judiciary have established any mechanism for organising the participation of plaintiff and non-plaintiff victims in the trial process, despite a large number of victims having joined the case and the existence of thousands of non-plaintiff victims.

### **Legal Agenda's Comment:**

**The importance of officially documenting the testimony of blast victims**

- Documenting the testimony of blast victims within an official procedural framework is a pressing need for

several reasons. It allows victims to articulate their perspectives and personal experiences, helps in their recovery from trauma, preserves their memories in the official record, and breaks the monopoly of state officials (many of whom were involved in the crime of the port blast) in shaping the historical narrative.

- For this reason, plaintiff and non-plaintiff victims must be allowed to give testimony about the impact of the blast on their lives. They must be heard as part of an official procedural framework, whether within the trial itself or elsewhere.

### **4.3 The cost of bringing action**

- Bringing legal action usually involves the payment of legal fees and costs determined by law.
- **Legal fees and costs:**  
Following are the fees and costs most likely to be owed by the plaintiff:
  - The cost of authorising counsel at the Bar Association of Beirut: 75,000 LBP

- The cost of submitting complaints, requests, or briefs: stamps to the value of 5,000 LBP
- The cost of submitting a document: a stamp to the value of 1,000 LBP
- The cost of summoning witnesses named by the plaintiff<sup>[25]</sup>: cost of sending a notification to the witness (set by the courier responsible according to the witness's place of residence) and the cost of the witness's travel to and from the court (set by the court)
- **Additional expenditure:**  
In addition to the legal fees and costs the plaintiff may pay the fees of their counsel, of authorising legal representation, and of obtaining documents necessary to make the complaint.



## **For further details:**

- **Justice for the Victims Requires More Than Legal Accountability, The Legal Agenda, 20/08/2020**
- **Legal Agenda statement on the Beirut port massacre investigation, The Legal Agenda, 25/08/2020**
- **Twelve Bad Signs at the Outset of the Beirut Massacre Investigation, Nizar Saghieh, The Legal Agenda, 28/09/2020**
- **Bar Association Sounds the Alarm about Beirut Port Investigation: What's Next? Nizar Saghieh, The Legal Agenda, 10/12/2020**
- **Lebanon's Battle Over Ministerial Immunity is Threatened by Impunity Politics - Nizar Saghieh - Legal Agenda - 18/01/2021**
- **Lebanese Court Removed Judge Who Sympathized With Beirut Explosion Victims, Nizar Saghieh, The Legal Agenda, 28/04/2021**
- **Statement by the Families of the Victims of the Beirut Port Massacre: Victims are united for the sake of truth and justice, The Legal Agenda, 2/3/2021**

## endnotes

- [1] Decree 6815 (11/8/2020): Referral of the Beirut Port crime to the Court of Justice
- [2] Article 356 of the Code of Criminal Procedure
- [3] Article 355 of the Code of Criminal Procedure
- [4] Article 357 of the Code of Criminal Procedure
- [5] Article 360 of the Code of Criminal Procedure
- [6] Articles 362, 364, and 366 of the Code of Criminal Procedure
- [7] Article 14 of the International Covenant on Civil and Political Rights
- [8] Article 362 of the Code of Criminal Procedure
- [9] According to some legal opinions the committee does not enjoy a legal personhood distinct from that of the state, which may prevent them being prosecuted
- [10] Article 60 of the Lebanese Constitution
- [11] Article 85 of the Code of Criminal Procedure
- [12] The Court of Cassation (3rd Chamber), Ruling 70 (24/3/1999) — Barsoumian: The public action and the Lebanese State
- [13] The Court of Cassation (Public Chamber), Ruling 7/2000 (27/10/2000) — Siniora: The Lebanese State

## endnotes

- [14] Article 40 of the Lebanese Constitution
- [15] Article 79 of the Regulation of the Legal Profession Act
- [16] Articles 340 and 343 of the Criminal Code of Procedure
- [17] The Court of Cassation (6th Chamber), Ruling 5/2021 (18/2/2021)
- [18] Decree 2366 (16/2/2018): The appointment of judges to the Court of Justice
- [19] Article 53 of the Code of Criminal Procedure
- [20] Article 420 of the Penal Code, and Article 12 of the Printing and Publishing Act (Decree 104/1977)
- [21] Article 328 of the Code of Criminal Procedure
- [22] Article 363 of the Code of Criminal Procedure
- [23] Articles 7 and 363 of the Code of Criminal Procedure
- [24] Article 240 of the Code of Criminal Procedure and Articles 1-61 of the Regulation of the Legal Profession Act
- [25] Article 244 of the Code of Criminal Procedure





# 2

## Reconstruction after the blast

### In this section

- 1 The Lebanese state's plan to reconstruct areas damaged by the blast**
- 2 Property sale in affected neighbourhoods**
- 3 Rights of tenants in affected buildings**
- 4 Protections for heritage neighbourhoods**

## **Legal Agenda and Public Works'**

### **Comment:**

#### **What reconstruction do we want?**

We want a plan for the complete, safe, and fair reconstruction of all areas damaged in the blast. To achieve this the plan must:

- guarantee the restoration of the economy and community in affected neighbourhoods, not just the rebuilding of buildings and infrastructure.
- be designed to achieve full recovery, restore normal daily life in affected neighbourhoods, and maintain the social fabric of the community.
- protect the right to shelter for all, protect residents from temporary and permanent displacement, guarantee their swift return to affected neighbourhoods, and is not restricted to the protection of private property rights.
- preserve the cultural heritage and historical identity of affected neighbourhoods, beyond the repair and reconstruction of individual heritage buildings.



- respect the environment and work to ensure that public and shared spaces are accessible to all.
- guarantee the participation of all blast victims and residents of affected neighbourhoods in its planning, organisation, coordination, and execution.
- ensure all victims are treated equally and include all social classes without discrimination on any grounds, particularly those with limited incomes, special needs, women, children, foreign workers, and LGBTQ individuals.
- ensure equitable compensation for all victims and give clear guidance on the criteria and mechanisms for obtaining it.
- look to the lessons of the past, in particular the reconstruction programs following the 1975-1990 civil war, the July War of 2006, and the Battle of Nahr Al Bared in 2007.

# 1 What is the Lebanese state's plan to rebuild areas damaged in the blast?

The state has not published any comprehensive plan for the reconstruction of damaged areas. Parliament has only issued the Law for the Protection of Areas Damaged as a Consequence of the Blast in the Port of Beirut and for the Support of their Reconstruction (Law 194/2020, passed in November 2020)

## 1.1 Law for the Protection of Areas Damaged as a Consequence of the Blast at the Port of Beirut and for the Support of their Reconstruction

- The most important aspects of Law 194/2020:
  - Creates a committee to survey damage and calculate compensation (see paragraph 1.2 in this section)
  - Protects four affected neighbourhoods (Port, Saifi, Medawar, and Rmeil) by placing restrictions on the purchase and disposal of real estate (see paragraphs 1.3 and 2 in this section)

- Extends leases in damaged buildings (see paragraph 3 in this section)
- Recognises the right of victims to compensation through a mechanism determined by the Council of Ministers (see Section 3 of this guide)
- Ratifies a set of exemptions from taxes and levies for blast victims

## **Legal Agenda and Public Works'**

### **Comment:**

#### **Rebuilding without rehabilitation**

- The law lacks any strategy or vision for reconstructing affected areas that draws on the lessons of the past.
- The law does not help empower residents to repair and rebuild their damaged buildings in an appropriate timeframe, nor does it clarify the process for distributing compensation, offer incentives, give priority to guaranteeing affordable housing, set out a process for the empowerment of the public sphere, or lay down policies to limit property



speculation in the city.

- The law contains no stipulations for the recovery of the most heavily damaged neighbourhoods as a whole, it only focuses on individual buildings. Particularly it disregards the right to access affordable housing that prevents the displacement of residents and tenants under both the old and new rental laws.
- The law offers no guarantee that the reconstruction process will respect the rights of disabled residents to transport and access to buildings, rights that were not respected in the reconstruction process post the 1990–1975 war, even though the laws governing construction and transport require it.
- As with all previous legislation, this law ignores the importance of preserving the social fabric and preserving neighbourhoods as communities.

## **1.2 The committee established by Law 194/2020**

Law 194/2020 calls for the creation of a reconstruction committee, tasked with surveying damage and determining the value of compensation for those affected. The committee was formally established on November 10, 2020 but had not began work by mid-March.

- **The committee is composed of nine members:**
  - The chair, who is a representative of the Lebanese Army leadership
  - One representative of each of the following public institutions and directorates: The Ministry of the Interior (the Governor of the City of Beirut and the Beirut municipality); the Ministry of Finance (the General Directorate of Real Estate); the Ministry of Culture; the Council for Development and Reconstruction; the Public Housing Authority; the High Relief Committee.
  - A representative from the Order of Engineers and Architects of Beirut

## ■ Tasks of the committee:

- To conduct a damage survey in the three-month period following its creation.
- To set up a database of damaged property.
- To provide an estimate of the cost of reconstruction and calculate the value of appropriate compensation for each property.
- To ensure that the repair and reconstruction of heritage buildings take place in accordance with the law.

### **Legal Agenda and Public Works' Comment: Excluding victims from the work of official bodies**

The committee contains not a single representative of rights holders, those affected by the blast, or residents, whose presence would increase transparency and inclusivity, both of which are of the greatest importance in light of the collapse of public trust in official proceedings.



- The committee is chaired by a representative of the Lebanese Army, further extending the armed forces' powers in the field of emergency relief work. The formation of the committee coincided with the declaration of a state of emergency in Beirut following the blast and its illegal extension.
- The committee's delays are an obstacle to completing the damage survey and compensating victims.

### **1.3 The committee established by Law 194/2020**

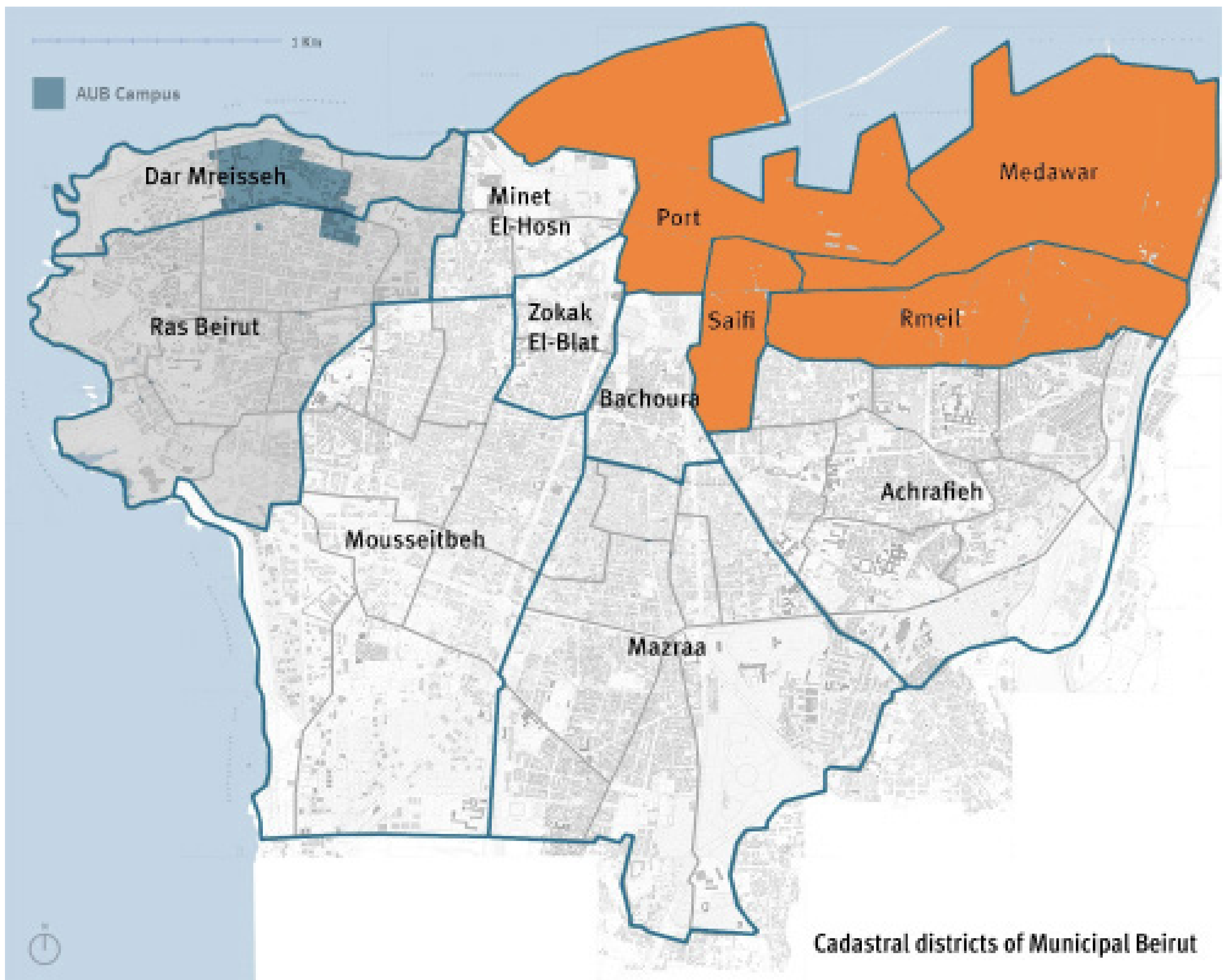
- Law 194/2020 stipulates that of the neighbourhoods damaged in the blast, four real-estate zones have protected status: Port, Saifi, Medawar (incorporating Karantina and Mar Mikhael), and Rmeil (incorporating Gemmayzeh)
- The law defines two kinds of damaged property:
  - **Property located within the protected zones:** Buildings and real estate located in Port, Saifi,

Medawar, and Rmeil.

The law forbids this real estate from being sold or otherwise disposed of, to protect owners from having properties being purchased at artificially low prices. It also gives owners the right to compensation for damage and tenants the right to extend their leases.

- **Damaged property outside the protected zones:** The law gives owners the right to compensation for damage and tenants the right to extend leases, however it does not protect property from being sold or otherwise disposed of.
- **The law gives no protection to other affected real-estate zones, most noticeably Bachoura.** In these zones, therefore, there are no restrictions on the sale of damaged property.

## Map of protected areas in the City of Beirut:<sup>[1]</sup>



\*Real-estate zones protected under Law 194/2020 are marked in red.

**Legal Agenda and Public Works' Comment:**  
What protections are there for other areas?

- The law's protection of damaged real estate is discriminatory, granting it exclusively to owners of property in the protected real-estate zones. Owners of other properties can only benefit from the right to compensation. In this respect, the law reveals a clearly



sectarian strategy, aiming to preserve the “sectarian identity” of certain geographical areas in the city, reflecting what Legal Agenda has called, “real-estate sectarianism”.

- The neighbourhood of Bachoura is denied protected status despite being a heritage neighbourhood with a unique architectural identity and a middle to low-income population. Bordering downtown, it divides West and East Beirut, and has witnessed successive waves of demolition and real-estate sales as part of major property developments, making it imperative that it is given the same protections as the other four affected zones.

## 2 Property sale in affected neighbourhoods

### Summary of restrictions to the sale of properties in the protected zones of Port, Saifi, Medawar, and Rmeil:

Type of contract	Date of contract or transaction	Restrictions stipulated by law
Sale and transfer of ownership	Prior to August 4, 2020	No restrictions
Sale by proxy or promises of sale or scanned contracts of sale	Between 5/8/2020 and 22/10/2020	All such contracts are suspended (with some exceptions) until they can be examined by a special committee created for this purpose by the Ministry of Justice
Sale and transfer of ownership	Between 22/10/2020 and 22/10/2022	Forbidden (with some exceptions)
Sale and transfer of ownership	After 22/10/2022	No restrictions

## 3 Rights of tenants in affected buildings

### 3.1 Rights of Tenants to extend their leases

- Extending leases:** Law 194/2020 extends all leases in affected buildings for a period of one year, with the following conditions:

- **Type of leased property:**
  - ◆ The extension covers both residential and non-residential leases, meaning that private individuals, commercial and non-profit entities, and tourist establishments (i.e. shops, bars, companies etc.) all benefit from the provision. It allows them to continue their occupation or use of the houses, buildings, apartments, and offices in which they resided or worked on August 4, 2020.
  - ◆ The law does not distinguish between degrees of damage and gives no guidance on dealing with leases in those buildings that are fully destroyed or unable to be repaired.
- **Type of lease:**
  - ◆ The law extends leases subject to contractual freedom and those extended by exceptional laws. In other words, the extension encompasses both “old” leases and “new” leases signed after 1992.



- ◆ Lease contracts can be oral or written, so tenants without a written contract may also benefit from the extension.
- **Duration of extension:** Leases are extended for one year, dating from the passing of the law (i.e. until 22/10/2021).
- **Can the tenant end their lease?**
  - The lease extension is in the interests of the tenant, who is the sole party permitted to end the contract at any time they choose.
- **Can the landlord evict tenants from their property during the extension period?**
  - No landlord has the right to evict any tenant who meets the conditions above during the extension period (i.e. until 22/10/2021), even if there is no written contract between the two parties.
  - Any notice of eviction given by the landlord shall be regarded as invalid.

- The police may be notified if the landlord attempts to compel the tenant to vacate the property or otherwise evict them by force.

## **Legal Agenda and Public Works' Comment: No adequate protection for residents' rights**

- Extending leases in damaged buildings and properties is not enough, given the severe nature of the economic and social crises facing Lebanon and the time it will take to repair these properties.
- The law contains no guarantees relating to the rights of residents in affected zones and buildings to alternative accommodation during the repair or reconstruction of their homes, such as requiring them to be given shelter in designated locations. The state has abandoned residents who have lost their homes, particularly the most vulnerable, such as low-income households and those with special needs. This exposes them to homelessness and forces them to rely on aid.

## 3.2 The obligation of the landlord to repair damaged property

- The landlord's obligation to repair the property at their own expense:
  - If the property is leased under the “new” rent law (i.e. after 23/7/1992): The landlord is obliged to take the necessary steps to repair the property at their own expense so that it is suitable for occupation and use by the tenant. The law requires the landlord to maintain the property and holds them responsible for all necessary major and minor repairs resulting from force majeure, such as the port blast.<sup>[2]</sup>
  - If the property is leased under the “old” rent law (i.e. prior to 23/7/1992): The tenant bears full responsibility for the costs of all internal repairs to the damaged property.<sup>[3]</sup>
- Exemption from licensing fees: Law 194/2020 exempts all repair and reconstruction work from licensing fees levied by the municipality of Beirut but does not change the conditions for obtaining that license.



- Available recourse if the landlord fails to repair the property
  - The tenant can undertake repair work that is not associated with the structure of the building.
  - If the landlord refuses to undertake repairs, or fails to apply to license repair work to the municipality of Beirut for any reason, the tenant, or any other owner of the property (if there is more than one owner of the property), may submit a request to the Interim Relief Judge to:
    - ◆ compel the landlord to undertake repairs under penalty of a compulsory fine.
    - ◆ obtain permission to undertake the repairs themselves.
  - The tenant (or one of the owners if there are multiple owners) may themselves submit a request for a license to carry out repairs to the municipality of Beirut. The request must include the following:
    - ◆ The written consent of all owners, or
    - ◆ A ruling by the Interim Relief Judge granting the tenant (or one of the owners) permission to undertake repairs.

- If the tenant contributes to the cost of repairs, they may deduct this sum from rental payments.
- The law contains no specific guarantee of alternative accommodation or compensation until the tenant's home is made habitable. If, out of malice, the landlord delays submission for a license to repair, any tenant who has been forced to rent more expensive accommodation may demand compensation for these costs from the landlord covering the period of delay.

**Legal Agenda and Public Works' Comment:  
What guarantees for residents' swift return?**

- Although there is a pressing need for the swift repair of damaged buildings, the law makes no changes to the requirements for repair licenses, therefore, removing none of the obstacles that will face residents and other tenants in the affected areas. This gives landlords the power to determine whether repair work takes place or not, regardless of the wishes of their tenants.

### **3.3 The payment of rent in damaged properties**

- **Does the landlord have the right to demand rent payment during the extension period?**
  - If the property is not fit for use but is repairable, the landlord may not demand rent payment until the repair work has finished.
  - If the property is partially fit for use, the tenant may not refuse to pay but has the right to reduce the rent. The new rent shall be determined by the use made of the property during the period taken by the repair work.
- **Can the landlord request an increase in rent during the extension period?**
  - The landlord may not request a rent increase from damaged property, because the law extends the lease contract “in all particulars” as it was on August 4, 2020.
  - Should the landlord refuse to accept rent as agreed upon prior to the blast, the tenant may arrange payment via a notary public.



- What if the tenant is unable to pay the rent?
  - Neither the landlord nor any enforcement agency has the right to force the tenant to vacate the property without a court order.
  - The police may be notified if the landlord requests that the tenant vacate the property or evicts the tenant in the absence of a court order.

#### 4 Protections for heritage neighbourhoods

- Law 194/2020 grants special protections to affected heritage buildings.
- Agencies involved in the protection of heritage buildings:
  - The Ministry of Culture: The ministry is responsible for drawing up plans for the reconstruction and repair of damaged heritage buildings.
  - The committee established by Law 194/2020 (referred to in paragraph 1 of this section of the guide): The

committee is required to provide oversight to ensure that the repair and reconstruction of heritage and listed buildings takes place in accordance with the law.

- Legal restrictions that apply to heritage buildings:
  - Any right in rem arrangement is forbidden for any building on the Register of Heritage Buildings without review by the Ministry of Culture.
  - No ruined or damaged heritage building may be rebuilt without the permission of the Ministry of Culture, which requires all work to preserve the original specifications and outward appearance of the building.

**Legal Agenda and Public Works' Comment:**  
Are there any effective protections for historical and cultural heritage?

The mechanism for the protection and restoration of heritage buildings as outlined in the law—particularly if taken alongside the system for preventing the sale and disposal of damaged properties in affected real

estate zones—is extremely fragile and does not take into consideration the residents of these buildings. It also focuses on individual buildings and does not protect heritage neighbourhoods as a whole.

### **For information and assistance:**

- **The Order of Engineers and Architects in Beirut:** Hotline to report on safety issues related to the structure of damaged buildings — 71692181 or 01850111 (internal line: 1001)
- **Public Works Studio:** Hotline to report violations of residents' rights and eviction threats — 81017023
- **The Lebanese Centre for Human Rights (CLDH):** Hotline for legal services for the owners and tenants of damaged buildings — 76329319
- **The Anti-Racism Movement:** Support for low-income migrant workers among the blast victims — 01788025 or 01800081



- **The Lebanese Union for People with Physical Disabilities:** Support for people with disabilities affected by the blast, and work to ensure their rights are protected within the reconstruction plan — 03192979 or 03455259
- **The United Nations High Commissioner for Refugees:** Support for registered victims of the blast — 01594250

## **endnotes**

- [1] The map was retrieved from the website of the American University of Beirut.
- [2] Articles 544 to 549 of the Code of Obligations and Contract
- [3] Article 6 of Law No. 2 of 28/2/2017



# 3

## Compensation for damages

### In this section

- 1 What is the right to compensation? Who is eligible for compensation?**
- 2 What forms of compensation can victims currently demand?**
- 3 How can victims demand compensation through the courts?**
- 4 How can victims demand compensation from insurance companies?**



## **Legal Agenda's position: What compensation do we want?**

- Full indemnification for all material, physical, and psychological damages and losses.
- Compensation equivalent to damages sustained.
- Swift restitution for those most in need, such as low-income households and those with special needs.

## **Introduction: The absence of a legal strategy guaranteeing the right to full compensation**

The port blast exposed the lack of any legal provision for the compulsory compensation of those affected by mass disaster events in Lebanon, as well as the inability of institutions tasked with disaster management to protect victims through full and fair compensation. Currently, there are no legal or institutional frameworks that permit victims to obtain compensation without recourse to the traditional mechanisms for determining civil or

administrative liability. Those avenues are unsatisfactory as payment of compensation is restricted to those parties responsible for causing the damages.

Now, many months later, the Lebanese state has still not drawn up any comprehensive plan to guarantee the right of those affected by the blast to full and fair compensation for damages sustained, whether material, physical, or psychological. Instead, it has promulgated several laws and decisions which either grant financial aid to a restricted class of victims, or which place certain victims under special regulatory mechanisms. However, it fails to explain the legal nature of this aid/compensation or how it is calculated and is unclear about process of receiving compensation. Furthermore, it has ignored the needs of many of those affected by the blast. In an attempt to offset victims' financial losses, the state has also granted them exemptions from some taxes and levies.

To obtain compensation not covered by these laws and decisions, victims have no choice but to turn to the courts, despite the length of time it takes to get rulings and the risk of insolvency of parties responsible for the blast due to the sheer scale of damages.

# 1 Defining the right to compensation

## 1.1 The right to compensation

- **The right to compensation for damages:** The right to compensation for damages is a fundamental right in Lebanese law and the international treaties which govern the obligation to protect interests and protected rights such as the right to life, and the security of person, possessions and dignity.
- **The right to full and fair compensation:** Some of the important essential principles of this right are as follows:
  - The principle of full compensation: Indemnification for all components of the damage.
  - The principle of fair compensation: That compensation only covers damages, with no scope for illegal enrichment.<sup>[1]</sup>
  - The principle of subjective assessment of compensation: assessment of the value of compensation based on the damages suffered by each aggrieved party.



## ■ Forms of compensation:

Compensation may be:

- *Pecuniary*: The offer of monetary sums, the law also allows for compensation to be given in the form of income for life for victims of felonies and misdemeanours leading to death or a permanent inability to work.<sup>[2]</sup>
- *Non-pecuniary*: Such as rebuilding damaged or destroyed accommodation and offering viable alternatives to damaged property.

## 1.2 Eligibility for compensation

- Blast victims: A victim is defined as any person who suffered damage to their person due to the blast, including those who lost their lives, and those who are permanently disabled or who suffered any other physical injury.
- Those affected by the blast: Anyone who suffered material or psychological damage as a result of the blast. This can include both natural and legal persons. One can distinguish between two different types of affected person:

- *Directly affected:* Those affected by direct personal damage, such as the owner or tenant of a damaged or destroyed building.
- *Indirectly affected:* Those who are affected by the damage directly affecting immediate victims:<sup>[3]</sup>
  - ◆ Indirect damages can be material, such as family losing its primary caregiver. In this case, every person linked to the victim by a material or work relationship may demand compensation for personal material damages caused by the death or injury of the victim (i.e. a brother who usually receives living costs from his sister who died in the blast, or an employer whose business is affected by an injury to one of their employees).
  - ◆ Indirect damages can also be emotional, such as the loss of a loved one. In this case, every person linked to the victim through a familial relationship may demand compensation for emotional damages (i.e. the husband of a deceased woman, her parents and children). Emotional damages cannot be claimed otherwise.

## 1.3 Damages that qualify for compensation

### ■ Types of damages that qualify for compensation:

- 1 Physical Damage that affect the person's body.
- 2 Material damages that affect rights and financial interests (i.e. to finances, objects, and property).
- 3 Moral damages, that affect the feelings and dignity of a person.

### ■ The nature of damages that qualify for compensation:

- *Certain and current harm:* Damages to affected parties that is actual and current (such as the destruction of property).
- *Future harm:* Damage resulting from the blast whose effects are yet to appear. These effects must be certain to occur and the resulting value of compensation possible to calculate, such as future healthcare costs or loss of earnings.
- *Escalating damages:* In cases where damages continue to escalate after the payment of compensation, those affected may demand that the established value of compensation be reviewed whenever there is a



recurrence of previous damages or when unforeseen events take place as a result of the blast (i.e. if the health of a patient deteriorates and they need additional medical procedures, as well as any loss of earnings due to these developments).

- *Lost opportunities*: The loss of a serious and likely opportunity, such as a victim who loses job opportunities because of permanent disability.

### ■ Compartmentalizing damages:

- Determining damages collectively impacts the rights of affected parties, as it does not guarantee that they will obtain full and fair compensation for specific harm suffered.<sup>[4]</sup>
- It is vital that each affected party detail the different components (physical, material, or moral) of their damages and assess the value of compensation needed.<sup>[5]</sup>

- Proving harm: The burden of proof lies on those making the claim.<sup>[6]</sup> Thus, those affected must prove the harm for which they are claiming compensation.

## It is important that victims retain:

- Documents, reports, and images which prove in detail the damages they have suffered.
- Documents which prove the receipt of any aid or compensation, and which define the specific damages for which the compensation was given.

## **2 The compensation currently available**

- The Lebanese state has issued various laws and decisions granting financial aid to a restricted class of victims and placing other victims under special regulatory mechanisms. However, the state fails to clarify the legal nature of this aid/compensation or how it is calculated and does not offer sufficient clarity concerning the mechanisms by which it is implemented. Below are details of these mechanisms as they apply to three classes of victim:
  - Those who lost their lives
  - Those affected by a physical injury or disability
  - Those whose property has been damaged

## 2.1 Victims who lost their lives

- This class of victim includes persons who lost their lives on August 4, 2020 during the blast or at any time afterwards where their death was as a result of injuries sustained during the blast.
- After listing the damages for which families of victims may claim compensation, we explain the three official mechanisms to provide them with assistance:
  - Financial aid for heirs of victims from the High Relief Committee
  - Granting victims the same status as military martyrs in accordance with Law 196/2020
  - Healthcare provisions for relatives and dependents of deceased victims in accordance with Law 194/2020

### The importance of proving the cause of death:

- The death certificate must include: The time of death (entered in Box 11 of the certificate) and that death was caused by injury sustained during the Beirut Port blast (Box 16).



- For those persons who were injured on August 4, 2020 and died subsequently, a medical report should be appended establishing that the death was the result of injuries sustained during the blast.

## i Damages for which compensation can be claimed

Examples of damages resulting from death	Means of proving damages
<p><b>Moral damages:</b> Psychological distress of the victim's family resulting from their emotional response to the victim's death:</p> <ul style="list-style-type: none"> <li>• Grief and trauma at the loss of a beloved person</li> <li>• Accompanying the injured victim through their final days</li> <li>• Psychological and emotional disturbance experienced by members of the deceased victim's family</li> </ul>	<ul style="list-style-type: none"> <li>• Death certificate or other documents proving the death of a family member</li> <li>• Documents proving the existence of a family relationship, such as Family Civil Registry records</li> <li>• Therapist reports</li> </ul>
<p><b>Material damages:</b></p> <ul style="list-style-type: none"> <li>• Burial and funerary costs</li> <li>• The loss of income of a family's primary earner in the event of their death</li> <li>• The cost of therapy treatment (therapist fees and the cost of medicines)</li> </ul>	<ul style="list-style-type: none"> <li>• Invoices for burial and funerary costs</li> <li>• Documents establishing the primary earner's income</li> <li>• Invoices for therapy treatment</li> </ul>

## **ii Financial aid for heirs of deceased victims from the High Relief Committee**

- On August 21, 2020 the Prime Minister and Head of the High Relief Committee, Hassan Diab, issued a decision granting financial aid to heirs of victims of the Port of Beirut blast. This decision applies to both Lebanese and non-Lebanese victims. The committee set the value of this aid at LBP 30 million to the heirs of every victim over ten years of age and LBP 15 million to the heirs of every victim younger than ten.<sup>[7]</sup>
- The High Relief Committee announced that heirs of victims must provide either original or certified copies of the following documents:<sup>[8]</sup>
  - 4** An identity document or an extract from the victim's civil registry
  - 5** An extract from the family civil registry with the name of the deceased struck out
  - 6** A certification of succession
  - 7** A death certificate
  - 8** A mukhtar's statement stating the cause of death
  - 9** An investigative report by the Internal Security Forces or a statement from the Military Police

- 10** A statement from the hospital stating the cause of death
- 11** A guardianship ruling in the case of minors
- 12** A power of attorney granted to one of the heirs on behalf of the others

**Legal Agenda's Comment:  
Financial aid is not full and fair  
compensation for damages**

Financial aid is not the same as compensation for all material, physical, and moral damages suffered by the victims' families. It functions as a basic measure to reduce the impact of the disaster on families and to assist their dependents. It does not negate their right to demand full and fair compensation.

**iii Designating victims as military martyrs  
in accordance with Law 196/2020**

- Law 196/2020 rules that civilians killed in the blast are granted the same status as military martyrs.<sup>[9]</sup> This allows the family of the deceased<sup>[10]</sup> to obtain a monthly pension,<sup>[11]</sup> financial aid,<sup>[12]</sup> free healthcare and treatment,<sup>[13]</sup> and assistance for children's enrolment in school.<sup>[14]</sup>



The Lebanese Army has called on relatives of the victims to apply for the compensation to which they are entitled to.<sup>[15]</sup>

#### **iv Healthcare provisions for relatives and dependents of the deceased in accordance with Law 194/2020**

- Prior to Law 196/2020, Article 8 of Law 194/2020 had ruled that healthcare provisions be granted to “relatives of Lebanese workers and citizens and their dependents” who were killed in the blast.
- **Continuing to benefit from the healthcare provisions of the National Social Security Fund:** If the deceased was a Lebanese worker, their relatives and dependents who formerly benefited from the healthcare provisions of the National Social Security Fund may continue to do so.
- **The right to preferential treatment in accessing comprehensive healthcare coverage from the Ministry of Health:** If the deceased was Lebanese and neither they nor their relatives and dependents benefitted from any healthcare provisions offered by any guarantor (including the National

Social Security Fund), they shall be given priority in accessing the comprehensive healthcare coverage offered by the Ministry of Health.

### **Legal Agenda's Comment:**

- The distinction contained in the law between the relatives of Lebanese and non-Lebanese victims of the port blast is an unjustified example of discrimination based on nationality.
- The law does not define which relatives of the deceased have the right to benefit from these healthcare provisions, nor does it clarify how dependents will be determined. Thus, it becomes necessary to turn to the Social Security Act's definition of which family members are entitled to benefit from the healthcare provisions of the insured party. It is likely that the same approach will be used to assess which dependents would qualify from the healthcare coverage of the Ministry of Health.

- Article 8 of Law 194/2020 and Law 196/2020 both make provisions about healthcare coverage for the families of those who lost their lives in the port blast, which could lead to contradictions in understanding the liabilities of institutions legally required to act as guarantors (Military Healthcare, the National Social Security Fund, and the Ministry of Health) and families being denied their rights.

## Summary of healthcare provisions for families of those who lost their lives in the blast

Institution	Beneficiaries	Conditions	Law
<b>The Lebanese Army</b>	Dependent family members of the deceased	None	Law 196/2020
<b>The National Social Security Fund</b>	Relatives and dependents of the victim who benefitted from the healthcare provisions of the National Social Security Fund	The deceased was a Lebanese worker	Law 196/2020



<b>The Ministry of Health (The right to preferential treatment in accessing comprehensive health coverage)</b>	Relatives and dependents of the victim, who do not benefit from the healthcare provisions offered by the National Social Security Fund or any other guarantor	The deceased was Lebanese	Law 196/2020
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## 2.2 Victims who have suffered physical injury or disability

- After listing the damages for which physically injured and disabled victims may claim compensation, we explain the official healthcare provisions offered to them in accordance with Law 196/2020.

### i Damages for which compensation can be claimed

<b>Examples of damages arising from physical injury</b>	<b>How to prove damages</b>
<p><b>Physical damage</b> resulting in:</p> <ul style="list-style-type: none"> <li>• Permanent or total incapacity, permanent disability, the loss of one or more limbs or organs, the loss of one or more senses, or disfigurement</li> <li>• Temporary harm or incapacity</li> <li>• The inability to work either permanently or temporarily</li> </ul>	<ul style="list-style-type: none"> <li>• Medical reports issued by an emergency ward, a hospital, a clinic, or a registered doctor that state:           <ul style="list-style-type: none"> <li>- All forms of physical damage</li> <li>- Partial or total or permanent or temporary incapacity or disability</li> <li>- The period of time unfit for work</li> </ul> </li> <li>• Scans and images proving the injury</li> </ul>

<p><b>Financial losses and expenses</b> resulting from:</p> <ul style="list-style-type: none"> <li>• Hospitalisation, medical consultation, medicines, and all forms of treatment</li> <li>• The daily care and treatment of those unable to meet their basic needs in an independent manner</li> <li>• Changes in lifestyle of affected parties as a result of physical injury (i.e. obtaining vehicles or accommodation designed for the new needs of the patient)</li> <li>• The inability to work or to take advantage of opportunities in the workplace and the impact of this incapacity on income and pension entitlements</li> </ul>	<ul style="list-style-type: none"> <li>• Bills for hospital treatment and medical consultations and examinations</li> <li>• Receipts for medicines and all forms of treatment</li> <li>• Bills for caregivers and nurses</li> <li>• Bills for all items and devices resulting from new needs</li> <li>• Documents proving denial or loss of income</li> <li>• Lease agreements for new accommodation</li> </ul>
<p><b>Moral damages</b> resulting from:</p> <ul style="list-style-type: none"> <li>• Distress caused by physical injury</li> <li>• Distress caused by physical injury to relatives</li> <li>• Trauma or anxiety</li> <li>• Denial of basic pleasures such as the ability to play sport or engage in hobbies</li> <li>• Disfigurement</li> <li>• Violations of privacy</li> </ul>	<ul style="list-style-type: none"> <li>• Medical reports issued by an emergency ward, a hospital, a clinic, or a registered doctor</li> <li>• Psychiatric reports</li> <li>• Documents proving relationship to the victim such as records from the family civil registry</li> </ul>

## ii Healthcare provision for disabled victims in accordance with Law 196/2020

- Benefiting from the healthcare provisions of the National Social Security Fund: Law 196/2020 makes disabled victims lifelong beneficiaries

of healthcare from the National Social Security Fund. It should be noted that that these parties are also beneficiaries of the comprehensive healthcare coverage provided by the Ministry of Health in accordance with the Disability Law No. 220/2000.<sup>[16]</sup>

- Benefitting from the aid, rights, and exemptions granted by the Disability Law No. 220/2000.

### Legal Agenda's Comment:

- Law 196/2020 makes no improvement on the situation of people with special needs and disabilities as defined in Law 220/2000.
- This law is clearly discriminatory in classifying victims, calculating compensation, and in its equating the status of deceased victims with that of military martyrs, without doing the same for those injured in the blast.



## 2.3 Owners and tenants of damaged property

- After listing the damages for which persons with damaged property may claim compensation, we explain the two official mechanisms for the provision of financial aid:
  - Financial contributions for occupants of residential apartments, disbursed by the Lebanese Army
  - Financial contributions to compensation for damaged real estate, assessed and disbursed by the Committee Established by Law 194/2020

## i Damages for which compensation can be claimed

Examples of the main types of material damage	How to prove damages
<p><b>Damage or destruction to:</b></p> <ul style="list-style-type: none"><li>• Residential or non-residential buildings</li><li>• The contents and furnishings of residential or non-residential buildings</li><li>• Equipment, appliances, and devices</li><li>• All land vehicles regardless of type or function</li><li>• All water-going craft regardless of type and function</li></ul>	<ul style="list-style-type: none"><li>• An expert's report proving material damages with an assessment of their scale and the cost of repair</li><li>• Images of the damage</li></ul>
<p><b>Financial and economic losses</b> resulting from:</p> <ul style="list-style-type: none"><li>• The cost of repairing material damages</li><li>• Forced absence from work:<ul style="list-style-type: none"><li>- The wages of salaried employees</li><li>- The fees of freelancers</li><li>- Income and profits of owners of commercial premises, institutions, and companies, and owners of laboratories and factories</li></ul></li><li>• The inability of tenants to pay rent to the owners of leased properties</li><li>• The cost of securing alternative accommodation or workplaces until damages can be repaired</li><li>• Renting alternative equipment and devices necessary for work</li></ul>	<ul style="list-style-type: none"><li>• Bills and invoices proving payment</li><li>• Leases for damaged accommodation or workplaces, and alternative properties</li><li>• Documents and reports proving the period of time absent from work, and wage slips from previous months and years to help calculate compensation owed</li></ul>

## **ii Financial contributions for occupants of residential apartments, disbursed by the Lebanese Army**

- As of March 10, 2021 the Council of Ministers gave the High Relief Committee LBP 150 billion to pay out as compensation to those affected by the port blast and tasked the Lebanese Army and the Governor of Beirut with setting up a mechanism to disburse the sum giving priority as appropriate.<sup>[17]</sup>
- The Lebanese Army decided to disburse this sum to occupants of residential apartments damaged in the explosion and identified in the damage survey conducted by the Army.<sup>[18]</sup> Payments were made to 20,297 occupants of apartments classified as middle to small size out of the 62,087 damaged residential units identified in the survey.<sup>[19]</sup> Initial payments ranged between 10–60 per cent of the value of damages to the unit depending on the scale of the damage.<sup>[20]</sup>
- The Lebanese Army did not clarify the criteria used to calculate the compensation or the mechanism by which this assessment might be challenged, but it did state that



affected parties could contact the army's Forward Emergency Room to request a reassessment.<sup>[21]</sup>

### **Legal Agenda's Comment:**

The sums disbursed by the Lebanese Army are a component of a full and fair compensation for damages. They can be considered an advanced payment and can be deducted from the final value of the compensation owed to affected parties. All victims, whether or not they have received these sums, retain the right to full and fair compensation.

### **iii Financial contributions to compensation for damaged real estate, assessed and disbursed by the Committee Established by Law 194/2020**

- Law 194/2020 grants the right to compensation for buildings damaged during the blast, providing the following definition of damaged buildings: “Any structure whose damages have been surveyed according to the criteria and mechanisms approved by the Lebanese Army and/or the High Relief Committee, regardless of whether or not it falls within the

protected real-estate zones stipulated by law (Port, Saifi, Medawar, and Rmeil).<sup>[22]</sup>

- The law has created a committee to manage the reconstruction process, formally termed the Committee Established by Law 194/2020:
  - This committee shall determine the value of compensation appropriate for each property, it shall follow a standardised and transparent set of criteria for the assessment, which takes all aspects of the damage into account.
  - The Council of Ministers shall approve the register of damages and compensations drawn up by the committee and approve the mechanism for disbursing compensation to the affected parties. The law makes no mention of any mechanism for objecting to the committee's assessments.
  - The committee has convened on one occasion (November 10, 2020) but is yet to begin its work (for more details see Section 3 of this guide).

## Legal Agenda's Comment:

The delay to the operations of the Committee Established by Law 194/2020 is a huge obstacle in the way of assessing damages and paying out compensation to affected parties. The delay has been excused on the grounds that the caretaker government is unable to issue the implementing decrees that would set out mechanisms for compensation. However, the law allows the committee to begin the process of gathering information and preparing the register of damages and compensation without requiring implementation decrees. This has led to the Lebanese Army assuming sole control of the process of assessing damages and disbursing financial aid.



## 3 How is compensation calculated?

### 3.1 Subjective assessment

- The court assesses compensation for damages with reference to subjective assessments, meaning that it takes into account the specific circumstances of every victim and affected party when making its calculations.
- It is difficult to assess the value of compensation for moral damages, which are intangible, subjective and differ from one person to the next. These are left to the courts to value. In the absence of any standardised systems of evaluation on which they can rely in these matters, the Lebanese judiciary tends to award very low sums for moral damages.
- In contrast, compensation for material and physical damages or those which affect material rights and interests, are evaluated objectively, relying on documentation to prove costs (i.e. of medical treatment, or lost earnings, or structural repairs, etc.).

## 3.2 Evaluating compensation in light of changes to the value of the Lebanese pound

- In those cases where the affected party undertakes to replace damaged property or repair damages at their own expense, compensation will match the sum paid, regardless of any subsequent decline in the value of the currency. The affected party has no right to demand anything other than the exact sum paid.<sup>[23]</sup>
- In those cases where the affected party chooses to wait for the court's ruling, the value of compensation is fixed at the date on which the ruling is issued. When calculating compensation, the court takes into account the ultimate aim of compensation, which is to enable the affected party to effectively repair damage.<sup>[24]</sup> For this reason, the court will take current social, economic, and financial circumstances into account when determining the value of compensation.<sup>[25]</sup>

### 3.3 How to reconcile financial aid with compensation

- A distinction must be drawn between two classes of financial payments made to victims and affected parties by governmental and non-governmental agencies:
  - *Compensatory payments*: Those which contribute towards compensation for damages <sup>[26]</sup> and which take into account its components when it is calculated.
    - ◆ These sums are considered an advance payment and are to be deducted from the final value of compensation awarded to the affected party.<sup>[27]</sup>
    - ◆ For example: Reconstruction and repair work carried out by organizations in affected buildings,<sup>[28]</sup> or monetary sums disbursed by the Lebanese Army to occupants of residential apartments.
  - *Non-compensatory payments*: Those which are calculated without regard to the components of the damages suffered.<sup>[29]</sup>



- ◆ These payments are not considered an advanced payment on the compensation, and shall not be deducted from the final value of any compensation awarded.<sup>[30]</sup>
- ◆ For example: Food aid provided to affected families.

## 4 How can victims demand compensation through the courts?

### 4.1 Seeking compensation from those responsible for the blast

- According to the traditional civil liability regulations, responsibility for the payment of compensation lies with the entity that caused the damages whether by their personal action, by the action of objects under their care, or by the action of persons working for them. Responsibility for compensation therefore falls on those persons whom the courts will rule liable for the blast at the Port of Beirut.
- Joining the lawsuit before the Court of Justice: The government decided to refer the port blast case to the Court of Justice, which is an exceptional criminal court. Victims and those affected have the right to be parties

to the case before the Court of Justice, as civil plaintiffs demanding compensation (see Section 1 of this guide).

■ **Bringing a case to the civil courts:**

- Victims who have received no ruling from the Court of Justice regarding their compensation (because they were not a party to the trial or because they did not request compensation) have the right to demand compensation by bringing a case to the civil courts against those persons determined to be liable by the Court of Justice and liable guarantors such as insurance companies.
- The costs of civil litigation include a scaled fee, calculated at 3 per cent of the demanded compensation<sup>[31]</sup> (a proportion of this sum to be paid before going to trial and the remainder when the court makes its ruling).<sup>[32]</sup> They also include the costs of the serving process and other legal fees, in addition to the fees of experts and lawyers.

- **Pretrial measures:** Victims may request the pretrial confiscation of sums of money belonging to individuals facing charges from the Public Prosecutor or the Judicial Investigator regarding their involvement in the blast to ensure they can pay the compensation owed. <sup>[33]</sup>

## **4.2 Seeking compensation from the state**

- **Judicial review:** Victims and those affected by the port blast have the right to bring an administrative case against the Lebanese state to demand that it pay compensation if it refuses to do so. The case is heard by the State Council and is termed “comprehensive judicial review”.
  - The case is based on the state’s liability for the errors of its utilities, the most important being the Port Authority of Beirut, the Customs Administration, the security agencies involved in the protection of the Port of Beirut, the ministries of Public Works, Interior, Defence, Finance, and Justice, as well as the Lebanese state’s duty to ensure the safety and security of all those who live on its territories.



- The plaintiff must appoint a lawyer to represent them before the State Council. The case must be brought within ten years of the blast occurring, meaning before 5/8/2030.

The costs of administrative litigation include a scaled fee, calculated at 3 per cent of demanded compensation,<sup>[34]</sup> lawyers' fees, as well as other legal fees.

- **Requesting advanced payment:**

Victims and affected parties may ask the State Council to compel the Lebanese State to pay an advanced sum against compensation. In other words, that they obtain in advance a portion of the compensation that the court may award them at the end of the trial. The procedures for this request are similar to those followed for a judicial review.

### **Legal Agenda's Comment:**

- Traditional mechanisms for demanding compensation are not appropriate for the nature of the port blast crime, for the following reasons:

- Trials before the Court of Justice, the civil courts, and the State Council typically run for long periods of time, which might delay restitution to victims if they are unable to obtain advanced payments.
- Those charged with responsibility for the blast do not have enough money to cover the value of the damages caused.
- The Lebanese state's finances are in a poor state and it may not be able to pay the compensation demanded of it by a ruling of the State Council. Similarly, it may not be possible to enforce rulings issued against the state.
- Parliament has issued no laws exempting victims of the blast from the payment of legal fees, even though it was entered on the agenda of the legislative meeting convened on 2020/12/21. As a result, victims are required to bear the costs of bringing cases to the courts to demand compensation.

## 5 How can victims demand compensation from insurance companies?

### 5.1 The liability of insurance companies for compensation

- **The principle:** Insurance companies are responsible for covering the costs of damages or destruction occurring through force majeure or unanticipated circumstance or resulting from error on the part of the insured victim.<sup>[35]</sup> As a consequence, they are responsible for covering damages arising from everything that is not connected with intentional fault on the part of the insured party. Therefore, the occurrence of damages resulting from any specific incident (such as the blast) make it incumbent on the insurance companies to provide compensation in accordance with the conditions and limits of the insurance contract.
- **Limits and exceptions in law:** The law provides for exceptions in which insurance companies are exempted from covering damages even when the conditions of coverage are otherwise met:



- Intentional fault on the part of the insured party <sup>[36]</sup>
- Foreign or civil war, civil disturbance, or popular movements, except when all parties agree to strike out this exception from the contract. <sup>[37]</sup>

### ■ Contractual exceptions:

Insurance companies are obliged to cover everything except for exemptions contained in law and contract. In cases where terrorism, vandalism, and explosions are not exempted from coverage, then insurance companies are liable for damages resulting from the blast at the Port of Beirut, in accordance with the conditions and limits of their contract. <sup>[38]</sup>

## 5.2 The liability of insurance companies for compensation

- 1 Can insurance companies refrain from payment until the end of the investigation to determine the cause of the blast?
- Many insurance companies in Lebanon refused to fulfil their obligation to compensate parties affected by the port blast, demanding to wait until the results of the investigation into the

cause of the explosion had determined whether it was the result of negligence, or was an act of terrorism or war, or was otherwise a deliberate act. They argued that many insurance contracts provided no coverage of damages resulting from acts of war or terrorism, or from explosions.

- On August 19, 2020 the Insurance Control Commission, an official body within the Ministry of Economy and Trade, issued a statement notifying all insurance companies and guarantors active in Lebanon of “the necessity of covering all contractually insured damages resulting from the blast, in accordance with the conditions and benefits of the insurance contract, without delay and under threat of legal proceedings being taken against them.”<sup>[39]</sup>
- Insurance contracts are governed by the principle of *pacta sunt servanda*, meaning the contract is the authority that determines the extent of the company’s liability for payment of compensation. Therefore, there is no requirement to wait for the conclusion of the investigation.

- Regarding contracts which exempt political hazards such as acts of war, or vandalism, or terrorism from their coverage, the following observations can be made:
  - Waiting for the results of an investigation, especially one that could take an extended period of time to conclude, works against the purpose of the contract itself. The insurance contract guarantees a form of social security as these companies play a major role in the ability of injured parties to obtain swift restitution in the event of exposure to harm of any kind, thus helping victims return to normal life as soon as possible. After paying the insured party, the companies seek restitution from the parties responsible for the damages. Suspending the implementation of insurance contracts based on conjecture negates the contract's content and purpose.
  - To date there has been no strong suggestion that the port blast was caused by any of the exceptional actors referred to in law or which occur in the text of the contracts. More than seven months on from the explosion, no state has claimed



responsibility for committing an act of war, nor has the Lebanese state begun proceedings under international law suggesting that it regards the blast as an act of war undertaken by another state. Moreover, no party has claimed responsibility for a terrorist act. Unless proven otherwise by the investigation, these hypotheses can be discounted for the time being.

- The companies' reluctance to pay may on occasion amount to an illegal act, as a deliberate <sup>[40]</sup> or malicious failure to meet a debt, <sup>[41]</sup> which would compel insurance companies to pay additional compensation due to the delay.

## 2 What recourse is there if an insurance company refuses partial or full payment?

- **A complaint to the Insurance Control Commission:** If the insurance company refuses to cover damages resulting from the explosion, the insured party may make a complaint to the Insurance Control Commission. <sup>[42]</sup> This body has the power to take legal measures against companies that are demonstrably refusing to pay

or delaying payment of monies owed to insured parties, including denying them access to, or use of, company accounts.<sup>[43]</sup>

- **Bringing a case to the civil courts:** The insured party may bring a case to the civil courts to demand compensation from the insurance company. If their case is self-evident (i.e. if the contract contains no exceptions) they may take the case to the Summary Judge. Regarding the case before the Court of Justice, the insurance companies may be listed as liable to pay compensation if they are connected by an insurance contract to one of the defendants (see Section 2 of this guide concerning the Court of Justice).
- **Bringing a case to the Insurance Arbitration Council:** The insured party may bring a case to the Insurance Arbitration Council to demand that the company pay compensation associated with healthcare and hospitalisation insurance contracts and insurance contracts for cars and vehicles. This case may be made on the following two conditions: that the sum demanded shall not exceed LBP 75 million, and that the plaintiff has not previously brought the same case before the courts.<sup>[44]</sup>

- **Requesting pretrial measures:** The insured party may request that the enforcement division take custody of the companies' deposits with the Ministry of Economy and Trade to guarantee their right to compensation.

## endnotes

- [1] T Y. LAMBERT-FAIVRE, S. PORCHY-SIMON, *Droit du dommage corporel, systèmes d'indemnisation*, Dalloz 2008, p. 25
- [2] Article 132 of the Penal Code
- [3] Article 134 of the Code of Obligations and Contracts
- [4] The Court of Cassation (1st Chamber), Ruling 1/95 (24/1/1995 — unpublished)
- [5] A.Vignon-Barrault, *quelle typologie des postes de prejudices-la notion de poste de préjudice*, Res.civ.et assur., dossier 5, mars 2010, p.25 et s; Nadine Arafat, *l'indemnisation des victimes d'accidents de la circulation: plaider pour un régime spécifique de responsabilité en droit libanais à la lumière de l'expérience française*, thèse, Aix-Marseille Université, 2020, p.222 et s.
- [6] Article 132 of the Code of Civil Procedure
- [7] Ruling 103/2020 (21/8/2000) issued by the Prime Minister and Head of the High Relief



## endnotes

Committee, Hassan Diab

- [8] Statement of the High Relief Committee, 29/92020 (see the Contacts section of this guide)
- [9] Law 196/2020 (3/12/2020) grants compensation and pensions to relatives of victims of the Beirut Port blast, and enables the disabled and injured to benefit from the healthcare provisions of the National Social Security Fund as described in the Social Security Act, promulgated pursuant to Decree 13955 (2609/1963), and the Rights of Individuals with Additional Needs Act (Law 220/2000 — 29/05/2000). Published in issue 48 of the Official Gazette on 10/12/2020.
- [10] Article 96 of the National Defence Act
- [11] Paragraph 2 of Article 94 of the National Defence Act
- [12] Article 95 of the National Defence Act
- [13] Paragraph 5 of Article 68 of the National Defence Act
- [14] Article 95 of the National Defence Act Article 95 of the National Defence Act
- [15] To contact the Lebanese Army see the Contacts section of this guide

## endnotes

Article 28 of Law 220/2000 (29/5/2000), the Rights of Individuals with Additional Needs Act

- [17] Decree 6979 (23/9/2020) granting exceptional credit approval in the national budget 2020, published in issue 47 of the Official Gazette on 3/12/2020, and Decree 7401 (22/1/2021) granting the High Relief Committee an advance budget, published in issue 7 of the Official Gazette on 18/2/2021
- [18] On 5/8/2020, the Council of Ministers “tasked the Lebanese Army and the High Relief Committee with conducting an immediate and comprehensive survey of damaged and affected areas to lay the ground for the rapid payment of emergency compensation to claimants according to need.” (Decree 1, 5/8/2020)
- [19] Press conference held by the High Command of the Lebanese Army on 1/3/2021 and a statement by the High Command issued on 10/3/2021
- [20] Statement by the High Command of the Lebanese Army issued on 23/10/2021
- [21] Press conference held by the High Command of the Lebanese Army on 1/3/2021. To contact the Advanced Emergency Room see the

## endnotes

### Contacts section of this guide

- [22] Article 1 of Law 194/2020 (16/10/2020) which protects zones affected by the blast in the Port of Beirut and supports their reconstruction, as published in issue 41 of the Official Gazette on 22/10/2020
- [23] The Court of Appeal of Beirut, Ruling of 22/4/1992 — Hatem: Bundle 209, p.453
- [24] Mustafa El Aougi, Civil Law, Part 2: Civil Liability, Bahsoun Publishing, p.676
- [25] The Court of Cassation (1st Chamber), Ruling 29 (6/6/1995) — Baz: p.176
- [26] Patrice Jourdain, «Etendue de la réparation : la prestation de compensation du handicap doit-elle s'imputer sur les indemnités réparant le préjudice corporel?», RTD Civ. 2013 p. 621.
- [27] Christine Guillard, Préjudice réparable, JurisClasseur Administratif, Fas.842, date de la dernière mise à jour, 1er juin 2015, n<sup>o</sup> 196 et s.; Benjamin Lvergne, Responsabilité-Modalités de la réparation, JurisClasseur Administratif, Fsc.845, date de la dernière mise à jour, 11 nov.2016, n<sup>o</sup>198.
- [28] François Séners, mise à jour par, Florian Roussel, Préjudice réparable, Encyclopédie



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Dalloz, Répertoire de la responsabilité de la puissance publique, n<sup>o</sup> 71-78.

- [29] Cass., ass. plén., 19 déc. 2003, n<sup>o</sup> 01-10.670, D. 2004. 186 ; RTD civ. 2004. 303, obs. P. Jourdain
- [30] Emmanuel Savatier, Le principe indemnitaire à l'épreuve des jurisprudences civile et administrative à propos de l'indemnisation des victimes de transfusions sanguines, Sem.jur.n<sup>o</sup>13, 31 mars 1999, doct.125, n<sup>o</sup>5.
- [31] Article 8 (amended) of the Court Fees Act (2.5 per cent) and Article 5, Paragraph 7 of the Judges' Mutual Fund Act (0.5 per cent)
- [32] Article 10 of the Court Fees Act
- [33] Articles 866 and 881 of the Code of Civil Procedure
- [34] Article 128 of the Statutes of the State Consultative Council
- [35] Article 966 of the Code of Obligations and Contracts
- [36] Articles 123 and 966 of the Code of Obligations and Contracts
- [37] Article 969 of the Code of Obligations and Contracts

## endnotes

- [38] Civ.1er , 6 nov.1962,JCP1962, II, 12929 note A.B ; civ. 1er , 16 nov. 1964,JCP 1965,II,14333bis, note Bigot.
- [39] Statement issued by the Insurance Control Commission, available on their website
- [40] The Court of Cassation, Ruling of 30/10/1962 — Baz, 1962, p.186
- [41] The Court of First Instance of Beirut, Ruling of 13/2/1992 — Hatem: Bundle 205, p.156
- [42] To contact the Insurance Control Commission see the Contacts section of this guide
- [43] The internal regulations of the Insurance Control Commission, Ruling 5 (18/6/2009), published in issue 32 of the Official Gazette on 2/7/2009
- [44] Article 48 of the Regulation of Insurance Companies Act (Amended), in accordance with Law 94/1999 (18/6/1996)





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# 4

## **Victims' Associations**

### **In this section**

- 1 Defining victims' associations**
- 2 The objectives of victims' associations**
- 3 The membership of victims' associations**
- 4 Can associations bring cases to court?**

## **Legal Agenda's Comment:**

### **Victims have the right to associate**

*Legal Agenda* supports all victims of the Beirut Port blast and encourages them to:

- Form associations to give institutional expression to their suffering, to unite and organise their efforts with the aim of securing their right to attain justice, dignity and compensation, to rebuild their lives and property, and to uncover the truth.
- Form a union of their associations to achieve the shared goals of all types of victim.

*Legal Agenda* offers legal support for the various victims' associations, particularly relating to setting up non-profit associations and companies.

## **1 Defining victims' associations**

- Victims' associations are spaces where victims of the port blast can come together and cooperate to advocate for their rights and place pressure on official and non-official agencies to secure these demands.

- In the case of the Beirut Port blast it will take years for justice, the provision of compensation, and reconstruction to be achieved. It is therefore vital that victims organise their activities and form associations to represent their shared interests over the coming period.
- The formation of victims' associations embodies the principles of social solidarity and cooperation.

### **Example:**

#### **Committee of Families of the Kidnapped and Disappeared in Lebanon**

- During the 1990-1975 war and afterwards, a number of associations were created for victims of the war (the martyred, the missing, the disabled, the forcibly displaced) in order to advocate for their rights.
- In 1982, the Committee for Families of the Kidnapped and Disappeared in Lebanon was formed to bring together relatives of the forcibly disappeared from across the country. It is a formal association, registered with the Interior Ministry.



- The committee was one of the most prominent voices opposed to the rule of Lebanon's warlords following the end of the conflict in 1990.
- The committee's primary role is to secure the right of its members to know what happened to their loved ones. They have been working for decades on pressuring the authorities and militias to hold investigations, filing lawsuits to help uncover the location of mass graves, and contributing to drafts of relevant legislation.
- The committee's most notable achievements include: A ruling from the State Shura Council in 2014 establishing the right of families to access information related to the fate of their relatives, passing of the 'Missing and Forcibly Disappeared Persons Law' in 2018, and the creation of the National Commission for the Missing and Forcibly Disappeared.

## 2 Objectives of Victims associations

- The primary purpose of founding an association is to unify the efforts of victims with the aim of securing their right to know the truth and obtain justice.
- The following are some of the main objectives of victims' associations:
  - The exchange of information between victims
  - Informing victims of their rights
  - Tracking legal proceedings connected to the rights of victims on both group and individual levels
  - Articulating shared demands concerning victims' rights and organising mass campaigns to advocate for these rights
  - Ensure shared representation at all political and decision-making events connected with the Beirut Port blast
  - Passing legislation to secure victims' rights
  - Filing multiple-plaintiff cases on behalf of victims

- Securing the rights of the victims to access information
- Taking a class-action approach to obtaining justice for the victims' sufferings and the violation of their rights
- Organising means to obtain financial and human resources to exact reparations and compensation for victims

### 3 Membership of Victims Associations

- **Associations for different categories of victim:** A victims' association may contain all or any of those who suffered harm as a consequence of the blast, regardless of whether that harm is physical, material or psychological. An association may draw their membership from one of the following categories:
  - *Relatives of victims or the missing:* This category may include family members of those killed during the blast or those who are missing and whose fate remains unknown.
  - *Residents of affected neighbourhoods:* Inhabitants of districts damaged by the blast such as Rmeil (including Gemmayzeh), Medawar (including



Mar Mikhael), Karantina (Khodr and Jisr), Saifi, Marfa'a, Bachoura, Achrafieh, Zuqaq Al Blat, and Bourj Hammoud.

- *The physically injured*: This would include anyone who was injured in the blast, including those who were temporarily or permanently disabled.
- *The disabled*: Victims who were permanently disabled can establish or join “disabled associations”, which are granted special legal status and the right to representation in the National Commission for Disabled Affairs by Law No.220/2000.
- *Commercial and cultural sectors*: Includes any members of commercial, industrial and cultural bodies (i.e. traders, restaurant and bar owners, creatives, craftsmen, media workers, etc.) whose places of work are located within the affected neighbourhoods.
- *Labour sector*: Includes those injured and otherwise affected by the blast who are linked by labour relationships, such as members

of the Beirut fire brigade and civil defence brigades injured by the blast, port and silo workers, and employees at affected hospitals and schools.

- *Foreign workers and other marginalised groups*: Includes foreigners injured during the blast, such as domestic workers and unskilled labourers, as well as members of other socially marginalised groups.
- **A union of victims' associations**:
  - Victims' associations may pool their efforts and resources by forming a union of victims' associations.
  - The union seeks to pool and direct the efforts of its members with the aim of realising their shared goals, to build solid foundations for cooperative action, solidarity between the different categories of victim, the provision of resources, and to place increased pressure on official agencies to obtain justice.
  - Members of these associations may agree to form an official union (registered as a non-profit association or company) or an unofficial union (an unregistered committee governed by a simple

contract), depending on the wishes, capabilities, and resources of the victims.

## List of current blast-victims associations:

- **Families of the Beirut Port Martyrs:** An association for relatives of those who lost their lives or are still missing.
- **Victims of the Beirut August Massacre**
- **Families of the Fire/Civil Defence Brigades:** A group for relatives of the martyrs of the firefighter crew.
- **A group for Foreign Workers** (in coordination with the Anti-Racism Movement)
- **A group for the LGBT community** (in coordination with Haven For Artists and the Yalla Care campaign)



## 4 Can associations bring cases to court?

- **Forms of association:** Victims' associations can take various legal forms. There is no model form. The choice will depend on whether the founders intend their association to be organised along formal lines, as well as on their own resources and circumstances. The most important forms are:
  - An unofficial committee
  - An association registered with the Interior Ministry
  - A civil non-profit company registered at the Civil Court of Beirut.
- **The legal personhood of associations and civil companies:**
  - Creating a victim's association in the form of an officially registered association or civil company grants it "legal personhood". It becomes an institution independent of its membership and enjoys all the rights that go with this personhood. These include the rights:
    - ◆ To bring legal cases and demands before the courts or the relevant

official bodies in the name of the association.

- ◆ To enter into contracts with individuals or other organisations, shielding its founders and members from assuming any personal liability as a result of the contract.
  - ◆ To manage its finances and spending, and to accept donations.
  - ◆ To protect the association's name.
- Unofficial committees have no legal personhood and have no standing before the courts or in contract law. Any contractual relationship between the committee and another organisation requires a contract in the name of an individual committee member rather than the committee itself.
- **The standing of associations in the courts:**
    - The Lebanese courts recognise the right of registered associations (and other official organisations with legal personhood) to appear before the court as plaintiffs in a case (i.e.,

the right to bring cases before the courts as interested parties).

- The administrative courts recognise the right of these associations and organisations to challenge administrative decisions made by public bodies when the lawsuit aims to defend the shared interests of the association's members or the objectives for which the association was created (i.e., those mentioned in the association's charter, which is registered with the Interior Ministry).
- This means that officially registered victims' associations can appeal against any administrative rulings that breaks the law and violates victims' rights to justice and compensation, such as decrees issued by cabinet, ministerial edicts, and decisions by municipalities and public institutions.
- Therefore, the process granting official status to victims' association and registering them with the Lebanese authorities is a vital first step when preparing to litigate or appeal against decisions made by public bodies.



## Useful Contacts

### ◆ **The High Relief Committee:**

- **Phone:** 01-373202 / 01-363052
- **Address:** Central District, Starco Building, Block C, 8th Floor, Beirut

### ◆ **The Lebanese Army:**

#### ■ **Forward Emergency Room**

- **Address:** Municipality Building
- **Phone:** 01-987002 / 01-987003
- **Fax:** 01-98700
- **Whatsapp:** 01-987001
- **Email:** advemergencyroom@gmail.com

#### ■ **Office of the committees for the survey and assessment of property damage**

- **Phone:** 01-293651

#### ■ **Enquiries about compensation and aid for families of those who lost their lives in the Beirut Port blast:**

- Beirut: Henry Shehab Barracks, Military Affairs Department, Phone: 01-841997 / 01-841452
- Mt. Lebanon: Shukri Ghanem Barracks, Military Affairs Department, Phone: 05-456933 / 05-958503
- Southern Lebanon: Mohammad Zaghbi Barracks, Military Affairs Department, Phone: 07-735630 / 07-735641
- Northern Lebanon: Bahjat Ghanem Barracks, Military Affairs Department, Phone: 06-390821 / 06-390841
- Beqaa Valley: Elias Abou Sleiman Barracks, Military Affairs Department, Phone: 08-951672 / 08-950822

## Useful Contacts

### ◆ **The Insurance Control Commission at the Ministry of Economy and Trade:**

- **Address:** Central District, Riad Al Solh Street, Building 87, Beirut
- **Phone:** 01-980823 / 01-980824 / 01-980825
- **Fax:** 01-980826
- **Whatsapp:** 81999069
- **Email:** [icc-care@insurancecommission.gov.lb](mailto:icc-care@insurancecommission.gov.lb)

### ◆ **The Beirut Bar Association:**

- **Address:** The Palace of Justice, Al Mathaf, Beirut
- **Phones:**
  - Hotline for victims of the Beirut Port blast: 71927333
  - BBA office lines: 01-423945 / 01-422204
- **To register a complaint or request advice from the BBA concerning the Beirut Port blast:**  
<https://bbaob.bitrix24.site/>
- **Email:** [info@bba.org.lb](mailto:info@bba.org.lb)

### ◆ **The Order of Engineers and Architects in Beirut:**

- **Address:** Beit El Mohandis Street, Section 47, Mar Elias, Beirut
- **Phones:**
  - Hotline to report on safety issues related to the structure of damaged buildings: 71692181 or 01-850111 (internal line: 1001)
  - Office line: 01-826488
- **Email:** [info@oea.org.lb](mailto:info@oea.org.lb)