



Short thematic country of origin information
report on Lebanon: extradition

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Introduction

This country of origin information report was prepared on the basis of the questions in the Terms of Reference (ToR) drawn up by the Ministry of Justice and Security on 15 August 2022. Together with the country report, the ToR is available on the website of the Dutch Government.

This short thematic country report examines legislation, regulations and practice in Lebanon with regard to the extradition of persons with dual nationality, insofar as this is relevant to the assessment of asylum applications and to decisions on the repatriation of rejected asylum-seekers. The report focuses in particular on the extradition from Lebanon to Syria of persons with both Lebanese and Syrian nationality. It is a factual, neutral and objective representation of the findings. It is not a policy document and does not reflect the government's vision or policy in relation to a country or region. It does not contain any conclusions concerning immigration policy. The report was prepared on the basis of confidential and public sources, using carefully selected, analysed and verified information.

Among other sources, legal texts, treaty texts and media reporting were used to compile it. The public sources that were consulted are listed in Chapter 3 of the report. The confidential sources are marked 'confidential source' in the footnotes and are dated.

Chapter 1 contains a brief overview of Lebanese legislation and regulations concerning extradition, and bilateral and multilateral treaties ratified by Lebanon containing provisions on extradition. Chapter 2 discusses the practice of extradition of persons with dual nationality between Lebanon and Syria, and between Lebanon and other countries.

1 Extradition law in Lebanon

A brief overview is given below of Lebanese legislation and regulations concerning extradition, and bilateral and multilateral treaties ratified by Lebanon containing provisions on extradition.

1.1 Criminal Code

In the Lebanese legal system, the legal provisions concerning extradition are included in Articles 30 to 36 of the Criminal Code (henceforth: CC).¹

1.1.1 Hierarchy of legislation

Article 30 CC states that extradition can only take place on the basis of the provisions of the CC or on the basis of a legally binding international treaty.²

Article 2 of the Code of Civil Procedure³ states that the Lebanese courts must comply with the principles of the hierarchy of legislation. Where there is a conflict between the provisions of international treaties ratified by Lebanon and those of Lebanese national law, the international treaties take precedence.⁴

1.1.2 Extradition of Lebanese nationals

It follows from Article 32 CC that Lebanon does not extradite Lebanese nationals.⁵

Under Article 20 CC, the Lebanese courts have jurisdiction with regard to offences committed by Lebanese nationals within or outside Lebanon, provided that the offences are punishable under Lebanese law. This even applies if the accused only acquires Lebanese nationality after the offence, or loses Lebanese nationality after the offence.⁶

1.1.3 Extradition of persons with dual nationality

The CC does not contain any specific provisions relating to the situation in which the person who is the subject of an extradition procedure has both Lebanese nationality and the nationality of the requesting state.⁷

¹ United Nations Special Tribunal for Lebanon (STL), *Lebanese Criminal Code; Selected articles; STL official translation (version September 2015)*, www.stl-tsl.org/sites/default/files/documents/legal-documents/relevant-lebanese-law/CHATC-150903-2_OAR_T_EN.pdf; Confidential source, 19 December 2022.

² STL, *Lebanese Criminal Code*; Confidential source, 19 December 2022.

³ English name: *Code of Civil Procedure*.

⁴ STL, *The New Code of Civil Procedure; Selected articles; STL official translation*, www.stl-tsl.org/sites/default/files/documents/legal-documents/relevant-lebanese-law/20130412_Selected_Articles_of_the_Lebanese_Code_of_Civil_Procedure_EN_1.pdf; United Nations Conference of the States Parties (COSP), *Review of the implementation of the United Nations Convention against Corruption; Executive summary: Lebanon (CAC/COSP/IRG/2015/CRP.21)*, p.2, 30 October 2015; Confidential source, 19 December 2022.

⁵ STL, *Lebanese Criminal Code*; COSP, *CAC/COSP/IRG/2015/CRP.21*, p.9, 30 October 2015; Confidential source, 19 December 2022 and 18 January 2023.

⁶ STL, *Lebanese Criminal Code*; COSP, *CAC/COSP/IRG/2015/CRP.21*, p.6, 30 October 2015; Confidential source, 19 December 2022.

⁷ STL, *Lebanese Criminal Code*; Confidential source, 19 December 2022.

1.1.4

Grounds for refusal

Article 34 CC contains grounds for refusal of requests for extradition. Extradition is refused under Article 34, among other grounds, if:

- it is requested in connection with a political offence, or it seems to serve a political aim;
- the penalty applicable under the law of the requesting state is contrary to the established social order.⁸

Articles 196 and 197 CC state that 'political offences' are to be understood as offences committed with a political motive. The most serious offences, including murder, grievous bodily harm and arson, are not deemed to be 'political'.⁹

The phrase 'contrary to the established social order' means, among other things, that extradition will be refused if there is a real risk that the requested person will face discriminatory or inhumane punishment in the requesting state.¹⁰

1.2 Other national legal provisions

The Act on Narcotic Drugs, Psychotropic Substances and Precursors of 1998 states that Articles 30 to 36 CC also apply to extradition requests based on suspicion of an offence that is punishable under this Act.

The Act also has a number of additional provisions concerning extradition. For example, Article 226 states that extradition will be refused if there are serious reasons to believe that the requested person will be persecuted because of his or her race, nationality or political or religious convictions.

Article 227 states that the Lebanese authorities will undertake the prosecution of persons whose extradition is refused because they have Lebanese nationality or were in Lebanon at the time when the offence was allegedly committed.¹¹

1.3 Judicial Agreement between Lebanon and Syria

Lebanon and Syria signed a Judicial Agreement on 25 February 1951.¹² The Lebanese Parliament ratified the agreement on 27 October 1951. The agreement contains provisions concerning extradition.¹³

1.3.1

Grounds for extradition

The agreement states that extradition can take place where there is double punishability: the offence of which the requested person is suspected must be punishable under both Lebanese and Syrian law. Extradition will only take place if, under the law of the requesting state, the penalty for the offence for which extradition is sought is imprisonment of at least one year.¹⁴

⁸ STL, *Lebanese Criminal Code*.

⁹ STL, *Lebanese Criminal Code*; COSP, *CAC/COSP/IRG/2015/ CRP.21*, p.9, 30 October 2015.

¹⁰ COSP, *CAC/COSP/IRG/2015/ CRP.21*, p.9, 30 October 2015; Confidential source, 19 December 2022.

¹¹ Confidential source, 19 December 2022.

¹² English name: *Judicial Agreement between the Lebanese Republic and the Syrian Arab Republic*. An unofficial translation of the treaty can be found at: www.syrialeb.org/SD08/msf/1507895519_.pdf.

¹³ Confidential source, 19 December 2022.

¹⁴ *Judicial Agreement between the Lebanese Republic and the Syrian Arab Republic (Informal translation)*, Article 2; Confidential source, 19 December 2022.

1.3.2 *Grounds for refusal*

The agreement also includes grounds for refusing extradition requests.

For example, Article 3, paragraph 1, states that the request for extradition may be refused if, at the time when the offence of which the person is suspected was committed, the requested person possessed the nationality of the state to which the request is made. In that case, the state to which the request is made is under an obligation to initiate criminal proceedings.¹⁵

In addition, the agreement states, among other things, that extradition will be refused if it is requested in connection with an offence of a political nature. Military offences and offences against heads of state are not political in nature, according to the agreement.¹⁶

1.3.3 *Extradition of persons with dual nationality*

The agreement does not contain any specific provisions relating to the situation in which the requested person has both Lebanese and Syrian nationality.¹⁷ However, Article 3, paragraph 1, states that the request for extradition may be refused if, at the time when the offence of which the person is suspected was committed, the requested person possessed the nationality of the state to which the request is made.¹⁸

1.4 **Riyadh Arab Agreement for Judicial Cooperation**

Twenty Arab countries signed the Riyadh Arab Agreement for Judicial Cooperation on 6 April 1983.¹⁹ The agreement contains provisions concerning extradition. Syria and Lebanon have both ratified the agreement.²⁰

Where the provisions of the 1951 Judicial Agreement between Lebanon and Syria conflict with the 1983 Riyadh Agreement, the latter takes precedence.²¹

1.4.1 *Grounds for extradition*

Article 38 states that any contracting party will, when so requested, extradite persons found on its territory charged with having committed a crime by another contracting party.²² The agreement does not contain the requirement of double punishability.²³

1.4.2 *Grounds for refusal*

Article 41 of the agreement sets out grounds for refusing extradition requests. Extradition will be refused, for example, when it is requested in connection with a political crime or when the crime for which extradition is requested is limited to a breach of military duties.²⁴ Article 41 states that assaults on heads of state, their

¹⁵ Confidential source, 19 December 2022.

¹⁶ *Judicial Agreement between the Lebanese Republic and the Syrian Arab Republic (Informal translation)*, Article 4; Confidential source, 19 December 2022.

¹⁷ Confidential source, 19 December 2022.

¹⁸ Confidential source, 19 December 2022.

¹⁹ English name: *Riyadh Arab Agreement for Judicial Cooperation*. An unofficial translation of the agreement can be found at: www.refworld.org/docid/3ae6b38d8.html.

²⁰ Confidential source, 19 December 2022.

²¹ Confidential source, 18 January 2023.

²² *Riyadh Arab Agreement for Judicial Cooperation; Article 38*; Confidential source, 19 December 2022.

²³ Commission of the European Communities, *Green paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union (COM[2004]334)*, p. 40, 30 April 2004.

²⁴ *Riyadh Arab Agreement for Judicial Cooperation; Article 41*; Confidential source, 19 December 2022.

families or their deputies are not political in nature. Murder is not deemed to be 'political' either.²⁵

1.4.3 *Extradition of persons with the nationality of the state to which the request is made*
Article 39 of the agreement states that any contracting party may refuse to extradite its nationals.²⁶

1.4.4 *Extradition of persons with dual nationality*
The agreement does not contain any specific provisions relating to the situation in which the person who is the subject of an extradition procedure has both the nationality of the state to which the request is made and the nationality of the requesting state.²⁷

1.5 Other international treaties

Lebanon is a party to twenty international treaties that contain provisions on extradition.²⁸ The only international treaty containing specific provisions on the extradition of persons who have the nationality of both the requesting state and the state to which the request is made is the extradition treaty with Australia. This treaty allows dual nationals to be extradited from Australia to Lebanon at Lebanon's request – with the possibility of reciprocation from the Lebanese side.²⁹ There are no known cases of extradition from Lebanon to Australia of a person with dual nationality.

1.6 Extradition procedure

The extradition request is received by the Ministry of Foreign Affairs and forwarded to the office of the Public Prosecutor at the Court of Cassation. The latter examines the extradition request and issues a positive or negative reasoned recommendation. The extradition request, the underlying file and the recommendation are submitted to the Minister of Justice. The latter issues its own recommendation based on the file and submits it to the Council of Ministers. The Council of Ministers makes the final decision whether or not to extradite. An extradition order must then be signed by the President. However, there have also been cases where the President has independently approved extradition without a prior decision by the Council of Ministers, after consulting the extradition committee that assists the Public Prosecutor in assessing extradition requests. The requested person may appeal against an extradition decision to the highest administrative court, the Council of State.³⁰

²⁵ *Riyadh Arab Agreement for Judicial Cooperation; Article 41.*

²⁶ *Riyadh Arab Agreement for Judicial Cooperation; Article 39; Confidential source, 19 December 2022.*

²⁷ Confidential source, 19 December 2022.

²⁸ *COSP, CAC/COSP/IRG/2015/CRP.21*, p.8, 30 October 2015; Confidential source, 19 December 2022.

²⁹ Confidential source, 19 December 2022 and 18 January 2023.

³⁰ Confidential source, 19 December 2022.

2 Extradition practice in Lebanon

A brief overview is given below of the practice of extradition of persons with dual nationality between Lebanon and Syria, and between Lebanon and other countries.

2.1 Extradition of persons with dual nationality

It follows from the legal context outlined above that Lebanon does not extradite Lebanese nationals. This follows from national legislation. None of the bilateral or multilateral treaties to which Lebanon is a party requires Lebanon to extradite Lebanese nationals. This legal practice also applies when the requested person has both Lebanese and another nationality.³¹

Therefore, with the exception of the case mentioned below in 2.1.2, there are no known actual cases of extradition by Lebanon of persons with both Lebanese nationality and the nationality of the requesting state.

2.1.1 *Extradition between Lebanon and Syria*

Several confidential sources stated that since the beginning of the conflict in Syria in 2011, there have been no known cases of extradition by Lebanon to Syria of persons with both Lebanese and Syrian nationality.³² One of the sources based this claim partly on consultation of the *Lebanon Official Gazette*,³³ in which all decisions in extradition proceedings are recorded. This has contained no record of any extradition requests since 2011 for persons with Syrian and Lebanese nationality.³⁴

According to three of the confidential sources, the possibility could not be ruled out that Syrians have, in exceptional circumstances, been transferred from Lebanon to Syria outside official extradition procedures, for example by Hezbollah. However, this related to unconfirmed and anecdotal reports, about which the sources were unable to provide more concrete information. There are no indications that persons of dual Syrian and Lebanese nationality were involved in any such incidents.³⁵

2.1.2 *Extradition between Lebanon and other countries*

In 2019, Lebanon extradited an individual named Ali Salameh to the United States. Salameh had both Lebanese and US nationality.³⁶ According to a confidential source, this is the only known example of the Lebanese authorities agreeing to extradite a person who had both Lebanese nationality and the nationality of the requesting state. In this case, Lebanon reportedly yielded to American pressure and allowed the extradition in order to maintain good relations between the two countries. It was an exception to the standing policy of not extraditing Lebanese nationals.³⁷ Two lawyers

³¹ Confidential source, 19 December 2022 and 18 January 2023.

³² Confidential source, 20 October 2022; Confidential source, 31 October 2022; Confidential source, 9 November 2022; Confidential source, 19 December 2022 and 18 January 2023.

³³ The *Official Gazette* is similar to the *Gazette* in the UK.

³⁴ Confidential source, 18 January 2023.

³⁵ Confidential source, 20 October 2022; Confidential source, 9 November 2022; Confidential source, 19 December 2022.

³⁶ Arab News, *Lebanon's justice minister tells Arab News Japan no extradition request received for Ghosn*, 2 January 2020; Le Commerce du Levant, *Trial, extradition, red notice, arrest... What risks does Carlos Ghosn face in Lebanon?*, 8 January 2020; International Bar Association, *The rule against the extradition of nationals: overview and perspectives*, www.ibanet.org/article/22AF1681-37AO-487A-A660-3ACA329388540, accessed 24 January 2023; Confidential source, 19 December 2022 and 18 January 2023.

³⁷ Confidential source, 19 December 2022 and 18 January 2023.

affiliated with the International Bar Association (IBA) confirmed in an article published on the IBA's website that this extradition by Lebanon of a person of Lebanese nationality was 'unprecedented'.³⁸

³⁸ International Bar Association, *The rule against the extradition of nationals: overview and perspectives*, accessed 24 January 2023.

3 Appendixes

3.1 Consulted laws and treaties

- *Lebanese Criminal Code; Selected articles; STL official translation (version September 2015)*, at: www.stl-tsl.org/sites/default/files/documents/legal-documents/relevant-lebanese-law/CHATC-150903-2_OAR_T_EN.pdf
- *The New Code of Civil Procedure; Selected articles; STL official translation*, at: www.stl-tsl.org/sites/default/files/documents/legal-documents/relevant-lebanese-law/20130412_Selected_Articles_of_the_Lebanese_Code_of_Civil_Procedure_EN_1.pdf
- *Judicial Agreement between the Lebanese Republic and the Syrian Arab Republic*, at: <https://www.syrleb.org/SD08/msf/1507895519.pdf>
- *Riyadh Arab Agreement for Judicial Cooperation*, at: <https://www.refworld.org/docid/3ae6b38d8.html>

3.2 Consulted news items and reports

- Arab News, *Lebanon's justice minister tells Arab News Japan no extradition request received for Ghosn*, 2 January 2020
- Commission of the European Communities, *Green paper on the approximation, mutual recognition and enforcement of criminal sanctions in the European Union (COM[2004]334)*, 30 April 2004.
- International Bar Association, *The rule against the extradition of nationals: overview and perspectives*, at: <https://www.ibanet.org/article/22AF1681-37A0-487A-A660-3ACA32938540>
- Le Commerce du Levant, *Trial, extradition, red notice, arrest... What risks does Carlos Ghosn face in Lebanon?*, 8 January 2020
- United Nations Conference of the States Parties, *Review of the implementation of the United Nations Convention against Corruption; Executive summary: Lebanon (CAC/COSP/IRG/2015/CRP.21)*, 30 October 2015

3.3 Abbreviations used

- COSP – United Nations Conference of the States Parties
- IBA – International Bar Association
- STL – United Nations Special Tribunal for Lebanon
- ToR – Terms of Reference
- CC – Criminal Code