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**THE LIABILITY OF THE GOVERNMENT COMMISSIONER
AND THE BDL CENTRAL COUNCIL
TOWARDS THE GOVERNOR'S MONETARY POLICIES**

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The monetary crisis in Lebanon has highlighted the failures of the financial policies of the Governor of the Lebanese Central Bank (Known as Banque du Liban: BDL) and the successive Lebanese governments.

After the current Prime Minister H.E.M Hassan DIAB, requested from the Governor an inventory of the assets and accounts of the Central Bank, the Governor issued a series of unilateral decisions relating to what it seems like a new monetary policy that might lead to a monopoly in fixing the exchange rate of the Lira (Lebanese Pound) versus the foreign currencies, especially the US Dollar.

The Governor's reply did not satisfy the Council of Ministers, who appointed three foreign audit firms (KPMG, Kroll, and Oliver Wyman) to inspect and audit the accounts of the Central Bank. In light of the demand to hold the Governor accountable, the latter resorted to the right of reply through a press conference on April 29, 2020 to justify the soundness of his monetary policies, blaming the current financial situation on the failures of the successive governments and their financial policies, evading the sole responsibility by hiding behind the Central Council of the Central Bank (The Council), hinting that he did not act alone and that the Government and the Ministry of Finance were fully aware and approving his actions.

In order to assess the claim by the Governor that the responsibility is shared by the members of the Central Council, we need to review the powers granted to the Council by the Lebanese Law of Money and Credit, without ignoring the de facto ongoing practices.

From the look of things, it seems that that the role of the Council is secondary. It is noted that the Council did not attend the press conference of the Governor, in this critical period of the country. If the members of Council are involved in the policies of the Governor or supporting them, they would be sitting with the Governor at the same table according to the rules. In fact, the Governor appeared in his press conference alone, as if alone he is heading and managing the Central Bank alone. Truth to be said, the Governor did not compel the members of the Central Council to be present in order to defend decisions they didn't participate in or take. In fact their marginalization reflects the real image of

the Bank's governance. The power is with the Governor and the Governor alone. And with power comes accountability.

By law, and in order to understand where the liability lies, it is necessary to look at the composition and powers of the Council. Pursuant to the Law of Money and Credit, the Council is composed from the Governor as its President, the Vice-Governors, the Director General of the Ministry of Finance and the Director General of the Ministry of Economy. The Council cannot meet neither in the absence of the Governor or his representative, nor in the absence of the Director General of the Ministry of Finance and the Director General of the Ministry of Economy. Decisions are taken by majority of the votes of the present members.

In the event of a tie, the Governor's has a tie-breaking vote. In addition, the Director General of the Ministry of Finance and the Director General of the Ministry of Economy are not permitted to act in the Council as government's representatives, that means they do are not allowed to voice concerns and represent their respective ministries but they act as members of the Council for administrative matters. The role to represent the Government rests with the Government's Commissioner before the Central Bank (a civil servant with the rank of Director General).

The Central Council has a number of roles including: determining the Central Bank's monetary and credit policy, determining the rate of deduction and the interest rate of the Central Bank's loans in the light of economic conditions, studying all the measures related to banks, and in requests for loans submitted in the public sector, setting other regulations related to the Central Bank's operations, the approval of the budget relating to Central Bank expenditures and its adjustments during the year, in addition to other matters as stipulated in Article 33 of the Law of Money and Credit.

Consequently, it is not within the capacities of the Central Council neither the authorization of spending nor the administration of the Central Bank. Consequently, these two powers are exercised by the Governor only and individually according to the Law of Money and Credit, contrary to what the Governor stated his press conference when he mentioned that spending over the amount of one hundred and fifty million Lebanese pounds needs the approval of the Central Council.

In fact, the Council exercises classic role of administration, whereas the Governor has the real powers whether or not stipulated in the law, since Article 26 of the Law of Money and Credit states that the Governor “has the widest powers in the management and administration of the Bank”, in addition to other powers listed in this article, which are not exclusive, so the Governor may exercise capacities that aren’t enumerated in the Law. This is confirmed by the organizational structure published on the website of the Central Bank <https://www.bdl.gov.lb/tabs/index/1/285/BDL-Organization-Chart.html> (See [attached the BDL organization Charts](#)).

The questions that come to mind: on what basis the Governor issues circulars to banks operating in Lebanon? Is the Council who draw the monetary policies? Is according to the Council’s monetary policies that the Governor adopts circulars?

The process of governance in the Central Bank is overshadowed by the unilateral governance system, similar to a presidential system, as the Governor of the Central Bank is the legal representative of the Bank, and signs on the behalf of the BDL all the instruments, contracts and agreements and he organizes the departments of the BDL and defines their functions, appoints and dismisses the Bank employees of all levels and ranks, and he can contract with whomever he wants. In fact, there is no partner to the Governor in the governance of the Central Bank and the members of the Council have no powers other than attending regular meetings to decide on the routine matters of the Bank.

The problem is that the term of the Governor's deputies ended last year on March 31, 2019 without appointing the alternatives, and their full powers were delegated to the Governor. Accordingly, after scrutiny, it is clear that the financial engineering operations were decided and approved by the Governor unilaterally without the approval of Central Council and even without the knowledge of its members. None of the members of the Council was aware of them according to the confirmation of one of the most prominent members of the Lebanese Association of Banks. Noting that since the end of the mandate of his deputies, the Governor issued circulars without referring to them or to the members of the Central Council and without consulting the Government.

Whereas the other two members, the Director General of the Ministry of Finance and the Director General of the Ministry of Economy, do not have a supervisory role as they do not represent the Government, nor do they have any special capacities or roles as the Law of Money and Credit is silent. In practice, they can only know of the financial topics from the agenda of the meetings.

Similarly to the deputies of the Governor, they can request the Council to suspend the implementation of a decision for three days at most, if the later considers this request having a justified explanation, and a new revision will be conducted within the deadline on the pending issue. In practice, the majority that took the decision will return and stick to it during the new revision, and according to the customary practice, the Governor's deputies always vote on his side, and therefore the votes of the Director General of the Ministry of Finance and the Director General of the Ministry of Economy are inefficient and not enough to stop any decision.

It is worth noting that the deliberations of the meetings of the Central Bank Council are confidential, and therefore the minutes of its meetings remain confidential and are not

to be published publicly. Consequently, the conclusion that the decisions of the Council are taken unanimously without any objection is not accurate, as it is not possible to know who agreed and who objected except by referring to the records. However, an ad hoc parliamentary committee can request the minutes of such meetings.

The actual supervisory role on the Governor's decisions rests with the Finance Minister through the Government's Commissioner. According to law, the decisions of the Council must be notified immediately to the Government's Commissioner, who - within two days after notification – pursuant to the review of the Finance Minister, has to ask the Governor to suspend every decision he deems contrary to the laws and regulations. Consequently, the Director General of the Ministry of Finance cannot inform the Finance Minister of the decisions of the Central Council or to act on his behalf in the Council.

In practice, and in keeping with tradition, the Government's Commissioner is notified only of routine Council's decisions, and of course not instantaneously, as he is not asked or consulted before the Governor takes any decision. In fact, the Governor's relationship with the Ministry of Finance does not pass neither through the Government's Commissioner nor through the Director General of the Ministry of Finance, but rather it is governed by the direct relationship between him and the person of the Finance Minister who provides him with the political umbrella.

Therefore, any Government's Commissioner cannot exercise his capacities without the approval and supervision of the Finance Minister; one cannot imagine that the Government's Commissioner, in accordance with Article 44 of the Law of Money and Credit, requests access to all Central Bank records and accounting documents, or to audit the Central Bank funds and assets contrary to or without the guidance of the Finance Minister to whom the Government's Commissioner depends under Article 41 of the Law of Money and Credit.

It is clear that the Central Council of the BDL does not bear responsibility for the Governor's monetary policies, and the partaking of responsibilities is not a feature of statesmen, and hiding behind fictitious sand citadels does not help in front of the public opinion. In front of the state of poverty experienced by the majority of the Lebanese people, if only the judiciary would intervene to resolve the byzantine controversy and render judgments to distribute responsibilities before citizens resort to take their own rights by force – to become a legitimate right – in the absence of Justice.

The BDL organization Charts



