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BRIEFING

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THE USE OF LAW AND MILITARY JUSTICE TO REPRESS "POLITICAL DISSENT" IN LEBANON: THE OMAR HARFOUCH CASE

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Omar Harfouch, a Lebanese national (but resident in France for 30 years) and long-time campaigner against corruption in Lebanon, was recently charged with "treason" for having "maintained contacts with Israeli nationals". An arrest warrant has been issued for him and he could face trial before a military court. This is an opportunity to take stock of legislation and practices that are all too often used to silence any voice of dissent in the Land of the Cedars.

1- "The Omar Harfouch affair": a reminder of the facts

In the late afternoon of 29 March 2023, Omar Harfouch attended a conference organised at the European Parliament in Brussels on the theme of "*Stop supportig terrorism*".

At one point, the chair of the session decided to give the floor to Mr Harfouch (who was seated in the room and not present on the podium alongside the main speakers) and he spoke briefly (for about three minutes) on the issue of corruption in Lebanon.

In the days that followed, **he was violently attacked in Beirut by left-wing media, Hezbollah¹ and the Lebanese authorities, who accused him of "having made contact**

¹ Hezbollah is a Shiite politico-military organisation founded in 1982 and sponsored by Iran. It has been involved in numerous attacks and hostage-takings in Lebanon and abroad. Three of its members, Salim Ayyash, Habib Merhi and Hussein Onneissi, were found guilty of the assassination of former Lebanese Prime Minister Rafiq Hariri (14 February 2005) and 21 other people, the first by a final judgement of the United Nations Special Tribunal for Lebanon on 7 April 2021, the other two by a judgement of 16 June 2022. Hezbollah is considered a terrorist organisation by the United States, the United Kingdom, Australia, Malaysia, Argentina, Colombia, the Gulf Cooperation Council and the Arab League. On 22 July 2013, the European Union placed its military wing on its list of terrorist organisations.

with an enemy state" (Israel). The daily *al-Akhbar*, reputed to be "close to Hezbollah²", was particularly virulent against him.

The military justice system then opened proceedings against Mr Harfouch for "treason" and issued an arrest warrant for him. **Since then, Omar Harfouch has been the target of a veritable campaign of hatred and denigration.**

Here are the concrete facts, presented as objectively as possible. Let's now move on to their analysis and the context in which the case is unfolding.

2- Who is Omar Harfouch? Why and how is he being persecuted by the Lebanese authorities?

The son of a professor of Arabic literature, pianist and businessman Omar Harfouch was born on 20 April 1969 in Tripoli and holds Lebanese nationality, to which he has always remained faithful³.

After winning first prize for piano in a prestigious competition, he studied this instrument in the Soviet Union, where he also trained in diplomacy at the Moscow Diplomatic Academy (part of the USSR Ministry of Foreign Affairs), where he was a pupil of Yevgeni Primakov (29.10.1929 - 26.06.2015), who was to hold high office under the presidency of Mikhail Gorbachev. In 2014, he married Yulia Lobova, a Russian model, and has lived in Paris since 1994.

He made his fortune in Ukraine at the age of 28 after founding one of the first FM radio stations, Supernova, with his brother Walid. After representing the "Elite" model agency in Ukraine, he became the organiser of the *Elite Model Look* international competition from 1997 to 2000. He made a name for himself in France in 2006 when he took part in the reality TV show "*Je suis une célébrité, sortez-moi de là*" (*I'm a celebrity, get me out of here*) in support of Reporters Without Borders (RSF). He has subsequently appeared on a number of other talk shows.

Presented by certain media as a "jet-setter" (which is an obvious way of trying to discredit him, rather like when Moscow's supporters insist that Ukrainian President Volodymyr Zelenski is a former comedian, or even a "clown"), Mr Harfouch is today essentially a politician and an activist in the fight against corruption and for institutional reforms in Lebanon.

He is also strongly committed to the cause of women. Back in the early 2000s, he denounced the sexual exploitation of certain models working for the Elite agency and contributed to a law in France banning young girls under the age of 16 from modelling.

² Its funding is opaque and many observers point to private funds close to Hezbollah, which is denied by the newspaper's management. In any case, its editor, Joseph Samaha, defends a political line close to Iranian-Syrian positions and fiercely hostile to the United States, Israel and France. See: <https://www.courrierinternational.com/notule-source/al-akhbar>.

³ However, because of his successive residences, he could claim French nationality as well as Ukrainian, Russian and German ones.

On 12 October 2012, he organised a conference at the European Parliament in Brussels with a dozen former models to reflect on how the European Union could get involved in the fight against violence against women. In 2021, he organised a round table at the French Senate to give a voice to former models from the Elite agency who had been victims of sexual assault.

Harfouch is not a man to leave indifferent. People either love him or hate him. And, if they do, they don't hesitate to defame him.

But his main battle is with his home country, Lebanon.

Concerned about the problems of waste in the city of Tripoli, he launched a series of seminars on the environment at the French Senate with **Nathalie Goulet** (Senator for Orne) and in 2018 he organised a meeting between French senators and President Michel Aoun.

2.a. A relentless fight against corruption

To combat the corruption of those in power in Lebanon, in 2019 he launched a petition on the "Change.org" platform calling for Lebanese public funds to be frozen in European banks, for the central bank to be placed under supervision and for an authority on transparency in public life to be set up, with a requirement to declare assets. The success of this mobilisation (more than 100,000 signatures were collected in the first few days the text was online) meant that the issue was put on the European Parliament's agenda.

At his initiative, French judge Charles Prats (a specialist in tax fraud) and French senator Nathalie Goulet travelled to Lebanon to meet financial prosecutor Ali Ibrahim. Prats and Goulet also took part in conferences with jurists and lawyers to help them create the tools needed to combat corruption, money laundering and tax evasion, and to enable stolen money to be returned from abroad.

Particularly moved by the explosions in the port of Beirut on 4 August 2020, he paid tribute to the Lebanese capital a month later at a concert at the French Senate, during which he presented his new composition "*Beyrouth ne meurt pas*".

But above all, Omar Harfouch has understood that beyond the fight against corruption, it is the Lebanese institutions that need to be changed. He therefore wanted to establish a **third, secular republic**. In May 2022, despite being virtually unknown in Lebanon, he stood unsuccessfully in the Lebanese parliamentary elections and made a name for himself with bold proposals ranging from the institutional changes already mentioned to granting Lebanese nationality to the children of Palestinian refugees born in the country.

In France, his commitment has earned him genuine recognition: **in March 2023, he was awarded the prestigious "Olivier de la paix" prize for his courage in the fight against corruption in Lebanon.**

But in Lebanon, his battles have earned him the tenacious hatred of the "establishment". His lawyer in Beirut, Joseph Elie Raphael, reports that the **Lebanese Prime Minister, Najib Mikati**, lodged a **complaint** on 4 April for "*defamation and slander*", "*disclosing the confidentiality of the investigation*" and "*inciting and provoking internal and sectarian conflict*".

In particular, Harfouch's was attacked for having mentioned in the Lebanese press the existence of an investigation in Monaco into Mikati⁴ for money laundering.

It is true that Mikati has reason to be angry with Omar Harfouch. The latter was not content with speeches. To give concrete expression to his commitment against corruption in his native country, he did not hesitate to hand over to the Monegasque courts tangible documents implicating not only Mikati but also the governor of the Banque du Liban, **Ryad Salameh**, thus providing proof that Salameh had illegally transferred several tens of millions of euros to Monaco. These funds were allegedly held by **Banque Richelieu Monaco**⁵, a subsidiary of **Société Générale de Banque au Liban S.A.L.** whose chairman, CEO and main shareholder is none other than **Anton Sehnaoui**⁶.

Since then, the investigation has accelerated. France, Germany and Luxembourg have seized €120 million belonging to Salameh⁷. And last March, the Lebanese banker **Marwan Kheireddine (a close friend of Mikati**⁸), chairman of the private bank **Al-Mawarid**, was arrested in Paris and questioned at length by the financial division judge **Aude Buresi**, who decided to put him under investigation. According to various sources, Kheireddine's revelations "*added further weight to the charges against Mr Salamé and his entourage*"^{9,10}.

Finally, Mr Sehnaoui himself is suspected of involvement in corruption cases¹¹ and is said to be behind a smear campaign in France and Lebanon aimed at discrediting Omar Harfouch¹².

Omar Harfouch, therefore, is the "man to kill" for the Beirut establishment.

The arrest warrant against him today is simply the logical outcome of this political vendetta launched by his opponents.

This accusation of "links with Israel" is, it should be noted, a **second attempt to use the same argument to silence Omar Harfouch.**

⁴ In 2019, prosecutor Ghada Aoun opened an investigation against Najib Mikati for "illegal enrichment"; in October 2021, his name appeared in the "Pandora Papers", a leak of nearly 12 million documents concerning, among other things, the offshore accounts of 35 world leaders and around a hundred other personalities. Mr Mikati denies any wrongdoing. However, as of 14 March 2023, an investigation was still underway in Monaco. See: <https://www.thenationalnews.com/mena/lebanon/2023/03/14/monaco-says-investigation-of-najib-mikati-will-continue-despite-lebanon-closing-case/>

⁵ <https://banquerichelieu.com/presentation/>

⁶ <https://www.executive-magazine.com/business-all/society/sgbl-a-new-horizon>

⁷ https://www.lemonde.fr/international/article/2022/03/30/coup-de-boutoir-contre-l-empire-financier-de-riad-salame-en-europe_6119782_3210.html

⁸ He was a minister in one of Mikati's governments between 2011 and 2013.

⁹ https://www.lemonde.fr/international/article/2023/05/17/affaire-riad-salame-la-justice-francaise-emet-un-mandat-d-arret-international-contre-le-banquier-libanais_6173691_3210.html

¹⁰ It should be remembered that until they have been found guilty by a final judgement, Messrs Mikati, Salameh, Sehnaoui and any other person named in this memo are deemed innocent.

¹¹ <https://libnanews.com/le-portrait-glacant-de-don-sehnaoui-le-patron-de-la-banque-sgbl-par-ghassan-chiha/>

¹² The following article, which accuses Harfouch of being close to Hezbollah (which he has been fighting for years) and of leading a campaign against Salameh "who prevented the banking system from collapsing completely and depriving depositors of their savings..." is particularly representative of these attempts at destabilisation: <https://www.entreprendre.fr/omar-harfouch-lancien-playboy-qui-se-verrait-bien-premier-ministre-du-liban/>

In 2022, when he was standing for election, numerous complaints were lodged against him, accusing him of anything. Even a simple *like* under a *post* on social networks was used to intimidate him. But the most vicious attack came from a dozen people who, a week before the election, lodged a complaint about alleged contacts between Harfouch and an American-Israeli journalist, Daphne Barak. Both had taken part in a trip to Libya in 2004 (which Omar Harfouch recounts in one of his books), but the journalist had spent only one day there, the Libyan authorities having sent her home because of her Israeli nationality.

As we shall see below in the discussion of another case, **these facts were largely time-barred** (the statute of limitations being ten years and this supposed "contact" having occurred 18 years before the complaint was lodged...). The case was nevertheless **declared admissible by the public prosecutor Ghassan Oueidate**, who decided to refer Harfouch to the military courts for treason and revealing state secrets.

It is worth pointing out here that **Prosecutor Oueidate is not just anyone**. Considered "*the shield of the establishment*" - in the words of the major French-language Lebanese daily *L'Orient-Le Jour*¹³ - Oueidate is the same magistrate who decided to **dismiss the corruption investigation opened by Ghada Aoun against Najib Mikati**, who has **never taken any serious steps to investigate the suspicious enrichment of the governor of the Banque du Liban, Ryad Salame** (who is now the subject of two international arrest warrants issued by Paris and Berlin on suspicion of corruption) and who **has done everything, for nearly three years, to put the brakes on the investigation into the explosion at the Port of Beirut**. His involvement in this murky affair earned him an indictment¹⁴ by the courageous investigating judge **Tarek Bitar**, who is trying, despite enormous pressure and constant threats, to shed light on the tragedy of August 2020.

In the current case, it is another Lebanese magistrate who has been instrumentalized: the Tripoli investigating judge, **Samaranda Nassar, who issued the arrest warrant for Omar Harfouch**. Once again, Ms Nassar is not just anyone. Reputedly close to **the Free Patriotic Movement** (CPL, a Christian party with close ties to Hezbollah), and protected by Ghassan Oueidate, she was approached for a time to deputize for Judge Tarek Bitar in the investigation into the explosions in the port of Beirut¹⁵. The families of the victims, as well as many observers, saw this as a new attempt to stifle the investigation in order to protect Hezbollah and the clique whose corruption and incompetence allowed the tragedy to happen.

Of course, it is always possible to think that the determination of Prime Minister Mikati, Public Prosecutor Oueidate, Mrs Nassar and others against a man who denounces the corruption that the government is determined to cover up is due to mere chance...

Others will find this coalition of politicians and civil servants, against the man who has been attacking them relentlessly for years, "curious".

¹³ <https://www.lorientlejour.com/article/1326092/ghassan-oueidate-bouclier-de-letablissement.html>

¹⁴ <https://www.letemps.ch/monde/moyenorient/procureur-general-libanais-inculpe-lenquete-lexplosion-port-beyrouth>

¹⁵ <https://www.lorientlejour.com/article/1311642/une-magistrate-proche-du-camp-aouniste-pourrait-etre-nomme-suppleante-a-bitar.html>

3- What Lebanese laws say about contacts with Israel

From a legal point of view, a state of war has existed between Lebanon and Israel since 1948. Lebanon does not recognise Israel and therefore has no diplomatic relations with that state. An armistice agreement was signed on 23 March 1949 and a peace agreement was signed on 17 May 1983¹⁶ but was cancelled on 15 June 1987.

Interactions between Lebanese and Israelis are largely covered by **a law on the boycott of Israel dating from 23 June 1955**. This law (passed at the instigation of the Arab League) prohibits any natural or legal person from entering into contact with Israelis or persons residing in Israel. It also prohibits all commercial, financial and other transactions. This crime is punishable by three to ten years' hard labour. Article 1 of this boycott law stipulates: "*It is forbidden for any natural or legal person to enter into an agreement, either on his own behalf or through an intermediary, with bodies or persons resident in Israel, or in the interest of Israel, whenever the purpose of the agreement is a commercial or financial transaction or any other business of any kind whatsoever*".

Article 285 of the Lebanese Penal Code punishes commercial relations between a Lebanese or a resident of Lebanon and a national or resident of an "enemy country" [understand: Israel].

Article 50 of the Code of Military Justice gives *military courts* the prerogative to hear these cases.

In **an extremely well-documented article** published more than ten years ago¹⁷, civil law researcher **Bchara Karam** examined this legislative arsenal: "*The subject is a sensitive one, because the general atmosphere created by the political discourse is that all relationships are prohibited, whatever their nature. But sometimes this is exaggerated: a handshake between Misses of Beauty, a concert by a rock group that passed through Israel on its tour, an Israeli advertisement on a Lebanese website - all these are acts of treason and treachery in the eyes of politicians. But what does the law say? Faced with the constant clamour for sanctions, it is appropriate to recall the great principle of criminal law, which is that there can be **neither crime nor sanction without a text**. And since it would be difficult for the legislator to have foreseen and sanctioned everything, it follows, at least theoretically, that there would be a **margin of permissiveness** in relations between the two countries*".

Karam gives the following example: a Lebanese company had entered into talks with a foreign company presumed to be one of the boycotted companies. The case came before the Criminal Court of Cassation, which ruled that there had been no breach of the boycott law: "*Even if there had been meetings at the foreign company's headquarters in London to discuss technical matters relating to accounting, in the presence of representatives from Lebanon and Israel, this does not fall within the concept of Article 1 of the law on the boycott of Israel, given that it did not result in the signing of any commercial, financial or other agreements with the Israelis*".

"Simple talks are therefore permitted", he concludes.

¹⁶ <http://www.mideastweb.org/lebanonpeace.htm>

¹⁷ <https://digestedigestif.wordpress.com/2011/10/09/les-relations-de-droit-prive-entre-libanais-et-israeliens-quelques-aspects/>

As for the charge, frequently put forward, of "treason": "*Another judgment has also refused to apply this same article as long as the (qualified) intention of treason with a view to harming the security of the State has not been proven. (Cass.Lib.Crim. 6^{ème} ch., 4/11/1997, Revue Cassandre, 1997, 11, p.j. 462). In this case, the various facts that cast doubt on the "accused" were: getting into a car with Israeli agents, being seen with these agents, and having spoken with soldiers of the South Lebanese army¹⁸. Clearly, chatting with Israelis is not incriminating. And even if there is chatting with Israeli agents, the chatting must be about information. What information? The Court of Cassation points out that the information must be secret, within the meaning of Article 281 of the Criminal Code. A shepherd who reported to the Israelis information such as the existence of shells in a given area, the fact that Palestinians had destroyed a house, a description of an individual, geographical details based on an aerial map, etc. was not considered to have reported secret information, because the information was apparent and not secretly kept. (Cass.Lib.Crim. 6^{ème} ch., number 215, 8/12/1998, Revue Cassandre, 1998, 12, p.j. 1197)".*

4- The role and importance of military justice in Lebanon

In a report presented in November 2010 at a session of the OHCHR¹⁹, the NGO **Alkarama** (an organisation set up in Switzerland in 2004 to defend human rights in the Arab world) took stock of the existence and operation of military courts in Lebanon²⁰: "*Amendments were made to the Lebanese Penal Code of 1 March 1943 under the law of 01/11/1958, also known as the Anti-Terrorism Law. These amendments, on the one hand, broadened the scope of crimes punishable by the death penalty and, on the other, removed the jurisdiction of the ordinary criminal courts in many cases, which have since come under the jurisdiction of the military courts. These military courts are made up of magistrates who are army officers who do not necessarily have legal training.*

The main body of military justice is the **Permanent Military Court**, which sits in Beirut and is composed of five judges, only one of whom is a civilian. For many years, the jurisdiction of the military courts has been extended to certain criminal offences committed by civilians, even though the acts for which they appear to have been charged do not constitute military offences. The actress and feminist activist **Shaden Fakih**, for example, was prosecuted before the military courts for tweets and humorous messages critical of the authorities (during the COVID-19 lockdown, she asked for sanitary towels to be delivered to her home...) ²¹

The operation of military justice is governed by a law dated 13 April 1968. The guarantees afforded to defendants under this law are less than those before the ordinary courts, particularly with regard to the rights of the defence and the right to a fair and public trial, which is in contradiction with the principle of equality between citizens before the law. In

¹⁸ The South Lebanon Army or SLA was an Israeli army auxiliary force that was active in southern Lebanon from 1976 to 2000.

¹⁹ Office of the United Nations High Commissioner For Human Rights.

²⁰ https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session9/LB/AK_Alkarama_FR.pdf

²¹ <https://www.amnesty.be/infos/actualites/article/liban-faut-mettre-terme-proces-militaire-comedienne-abandonner>

addition, the military courts report to the Ministry of Defence²² , which exercises direct hierarchical power over them.

Another exceptional court is the **Council of Justice**, which has jurisdiction over all matters relating to the internal or external security of the State, such as crimes of treason, espionage and attacks on national security or unity.

The Conseil de Justice does not have its own investigative structure, which means that it often bases its decisions on preliminary investigations carried out by the security services, particularly military intelligence. It is also eminently political: "*The Conseil de Justice [...] is often regarded as a political court because of the organic link that binds it to the political authorities: cases are referred to the Conseil by a decree issued by the Council of Ministers, which decides on the cases referred to it.*"²³ "

5- Discussion of the specific case of Mr Omar Harfouch

5.a. What Omar Harfouch is accused of doing

We would like to stress from the outset that it is difficult to know, in detail, what the Lebanese justice system is accusing Mr Harfouch of. Neither Mr Harfouch nor his lawyers were notified of the arrest warrant (which is not abnormal in itself, as the existence or otherwise of an arrest warrant is, in most countries, subject to the confidentiality of the investigation, which is logical and is intended to prevent the subject of the warrant from evading it), whether they be Lebanese or French.

It is therefore impossible to determine the sentence that Mr Harfouch is facing, which, depending on the offence or crime with which he is charged, could range from three years' hard labour (if only the offence of "contact with a national of an enemy country" were upheld) to the death penalty if a conviction were sought for the most serious crime (treason)²⁴ .

However, **beyond the strictly legal aspect of things, it is important to remember that the designation of Mr Harfouch as a "traitor" or a man with contacts with Israel is likely to put him at major risk** by making him a target for various Lebanese extremist factions, including Hezbollah.

Similarly, if Mr Omar Harfouch were to be arrested one day in Lebanon, we might fear for his physical integrity. As Amnesty International and 14 other human rights organisations pointed out on 26 June 2022: "*In theory, Lebanon has strengthened its protection against torture. In practice, torture remains widespread. Complaints are rarely brought to trial: most are dismissed and no effective investigation is carried out. The Law against Torture itself does not comply with Lebanon's obligations under the UN Convention against Torture. It establishes a statute of limitations for prosecutions relating to acts of torture, from three to 10 years from the time the victim is released from police custody or prison, in violation of*

²² <https://iedja.org/lorganisation-juridictionnelle-du-liban/>

²³ <https://iedja.org/lorganisation-juridictionnelle-du-liban/>

²⁴ It should be noted, however, that although the death penalty is still included in the Lebanese penal code, for crimes such as treason, it has not been applied since 2004.

international standards which state that there should be no statute of limitations for acts of torture. Furthermore, the penalties provided for by the law do not accurately reflect the seriousness of the crime of torture. The law does not criminalise cruel, inhuman or degrading treatment or punishment, which is prohibited under the UN Convention against Torture; and it does not explicitly prohibit the referral of torture complaints to military courts, which human rights organisations say are not independent and do not respect the right to a fair trial.²⁵ "

Such fears would not be exaggerated. Actor **Ziad Itani**, who was suspected of being an Israeli spy before being cleared and released, claimed to have been abducted and tortured by agents of the security services. No serious steps have been taken to investigate his claims, which appear credible to many observers and human rights organisations²⁶ .

5.b. An unenforceable law with variable geometry

It is obvious that the spectrum of Lebanese legislation relating to relations between the Lebanese and the Israelis is so imprecise and broad that it is de facto inapplicable and that its use is therefore a matter of "fait du prince", which is enough to make it an arbitrary act.

What, legally speaking, is a "contact"? A lengthy cooperation? A discussion? A simple handshake? Just being in the same room or the same place?

But if the latter definition were adopted, then Lebanese diplomats taking part in the work of the UN (and, among others, in its annual General Assembly) would all have to be prosecuted since they are, in fact, in the same room as Israeli diplomats and taking part in the same work. The same would apply, for example, to Lebanese athletes taking part in an international sporting competition such as the Olympic Games. This simple demonstration of the absurd is enough to show that the use or non-use of this law is a political decision, not a judicial one, and therefore violates the principle of equality of all Lebanese before the law.²⁷

A very recent development further complicates the discussion about the relevance of these laws and their application. In autumn 2022, an agreement was reached between Beirut and Jerusalem - with the United States acting as mediator. It aimed to delimit the maritime border between the two states with a view to exploiting the Karish gas field.²⁸ It could rightly be argued that this agreement constitutes the beginnings of a de facto (if not de jure) recognition between the two states, but that is another debate.

For the purposes of our demonstration, we will confine ourselves to pointing out that the principal American negotiator of this agreement, Mr Amos Hochstein, currently President Joe Biden's advisor on energy security, is (or, at the very least, was²⁹) an Israeli-American dual national³⁰ having, moreover, served in the Israeli army³¹ . This point has been widely

²⁵ <https://www.amnesty.be/infos/actualites/article/declaration-conjointe-exhortant-liban-appliquer-torture>

²⁶ <https://www.arabnews.com/node/1339926/amp>

²⁷ Constitution of Lebanon, Article 7, [Lebanese Constitution- En.pdf \(lp.gov.lb\)](#)

²⁸ <https://fr.euronews.com/2022/10/11/liban-israel-un-accord-historique-trouve-sur-le-gaz-en-mediterranee-orientale>

²⁹ It is customary for an American citizen with a second nationality to renounce his or her second nationality if called upon to perform specific duties relating to national security.

³⁰ https://en.wikipedia.org/wiki/Amos_Hochstein

commented on, both in Lebanon and in Israel, including in the columns of the leading daily *Haaretz*.³²

This makes it possible to understand the limits of the application of Lebanese legislation on relations with Israel. From a legal point of view, Mr Hochstein's possible or supposed Israeli citizenship and the fact that he served in the Israeli army raise a very clear question: did the Lebanese parties who negotiated with him break Lebanese law or not?

American University of Beirut researcher Marc Ayoud goes even further: "*We all know that the United States in general, even if it wasn't Israeli... won't give the Lebanese everything they're asking for [...] So whatever American mediation there is, it's going to be more focused on Israeli profits, Israeli security concerns, Israeli advantages, rather than Lebanese advantages. That's something we know in our hearts*".³³

Finally, we would point out that even Hezbollah, which certainly represents the Lebanese party most opposed to Israel and to any normalisation with that state, has adopted a position on this issue that is ambiguous, to say the least, through the voice of its leader, Hassan Nasrallah, who declared that his party "*will not express an opinion or position regarding the demarcation of borders*" but remains ready to confront Israel if Lebanon's mineral resources "*are in danger*".³⁴ However, whatever Mr Hochstein's nationality, it appears that he has taken part in various lobbying operations on behalf of Israel or Israeli companies.³⁵

We are obviously pleased that the Lebanese authorities are not interested in Mr Hochstein's nationality (or dual nationality) or his past. But this incident can only reinforce the idea that Lebanese legislation on contacts with Israelis is variable geometry: if these contacts serve Lebanon's economic interests, they will be ignored, but if they can be used to try to silence a 'dissident', they will be used to harm him.

It should also be noted that **there no longer seems to be a national or social consensus in Lebanon on the question of relations with Israel** (and therefore on the question of whether or not one can maintain relations with citizens or residents of that country). In April 2022, a conference entitled "*On Reclaiming Neutrality in Lebanon*" was held in Harissa (central Lebanon). Maronite patriarch Bechara al-Rahi urged the country to free itself from Iranian influence and adopt a neutral foreign policy. The patriarch, like several other participants, even broached the taboo subject of normalisation with Israel. "*We are now involved in other people's wars, when we want to make peace. We are now a home for preachers of hate, when we want to spread love*", said Toni Nissi, a Christian speaker who opened the conference.

³¹ <https://today.lorientlejour.com/article/1280583/amos-hochstein-the-israeli-born-diplomat-mediating-lebanon-israel-maritime-border-negotiations.html>.

³² <https://www.haaretz.com/opinion/2022-10-21/ty-article-opinion/.premium/americas-dishonest-brokers/00000183-f6b9-dd9c-af97-feff4ef50000>

³³ <https://today.lorientlejour.com/article/1280583/amos-hochstein-the-israeli-born-diplomat-mediating-lebanon-israel-maritime-border-negotiations.html>.

³⁴ Ditto.

³⁵ Idem.

5.c. Discussion of the specific case of Mr Harfouch

But let's get back to the specific case of Mr Omar Harfouch.

On 29 March, Mr Harfouch was present in a room of the European Parliament hosting the above-mentioned conference ("*Stop supporting terrorism*"). To clarify the case, we need to **discuss and answer a number of questions:**

- **Is this conference being organised by the State of Israel, by an Israeli organisation or by Israeli nationals?**

The answer to the first question is clearly no.

The conference is being held at the **initiative of four Members of the European Parliament**: Antonio López-Istúriz White³⁶, a Spanish national and member of the People's Party (right), Lukas Mandl³⁷, an Austrian national and member of the People's Party, Costas Mavrides³⁸, a Cypriot national and member of the Socialist Group, and Bert-Jan Ruissen³⁹, a Dutch national and member of the ECR Group (Conservatives and Reformists).

"Technically", it is **organised by the NGO IMPAC** (*International Movement for Peace and Coexistence*), a **Belgian "international non-profit association" based in Brussels**.⁴⁰ . IMPAC's main aim is to "promote and fight for the defence of equal opportunities, human rights, freedom of expression, peace and coexistence between people of different origins, particularly in Europe and the Middle East". Nowhere in its statutes is there the slightest reference to Israel.

- **Who are the participants (speakers) at this conference?**

In addition to the four parliamentarians mentioned above, Mrs **Patricia Teitelbaum** and Mr **Nigel Goodrich** representing IMPAC, six other speakers are at the conference table:

- **Imam Hassan Chalghoumi**, President of the Conference of Imams, Imam of Drancy;
- **Itai Reuveni**, Director of Communications, NGO Monitor, Jerusalem;
- **Eric Gozlan**, Co-Director of the International Council for Diplomacy and Dialogue; Paris;
- **Angel Mas**, President of Action & Communication for the Middle East, Madrid ;
- **Claude Moniquet**, Co-Director of the European Strategic Intelligence & Security Center, Brussels⁴¹ ;
- **Arsen Ostrovsky**, lawyer and Director of the International Legal Forum, Tel Aviv.

³⁶ [Home | Antonio LÓPEZ-ISTÚRIZ WHITE | MEPs | European Parliament \(europa.eu\)](#)

³⁷ [Home | Lukas MANDL | MEPs | European Parliament \(europa.eu\)](#)

³⁸ [Home | Costas MAVRIDES | MEPs | European Parliament \(europa.eu\)](#)

³⁹ [Home | Bert-Jan RUISSSEN | MEPs | European Parliament \(europa.eu\)](#)

⁴⁰ [HV - SC \(fgov.be\)](#)

⁴¹ And one of the two signatories of this note.

➤ **Is one of the participants in this conference Israeli?**

This question is not relevant in terms of European and Belgian law and practice, but one of the two organisations ("International Legal Forum" and "NGO Monitor") is undoubtedly based in Israel.

➤ **Is Mr Harfouch a "participant" at this conference?**

Mr HARFOUCH is not the organiser, co-organiser or even a "participant" (in the sense that he is not one of the speakers) in this conference. He was attending as a private person, and the Chair of the meeting, Mrs Teitelbaum, decided to give him the floor. From the room, Mr Harfouch raised the issue of corruption in Lebanon. He did not speak for more than a few minutes. Moreover, having been present in the room, we can testify that Mr Harfouch had "contact", before or after he spoke, with only four people: Ms Teitelbaum, Mr Goodrich, Imam Hassen Chalghoumi and Mr Moniquet. None of these four people is an Israeli national or resident.

➤ **Could Mr Harfouch have known the nationality or place of residence of the participants (guests, organisers or speakers) at this conference?**

With the exception of the four inviting members of parliament, whose nationality was specified at the time of the invitation and again when they took the floor, Mr Harfouch had no way of knowing the nationality or place of residence of the conference organisers or speakers.

Moreover, as he himself has pointed out in interviews, it is not customary in Europe to ask the nationality of participants in a public event. Worse still, such an approach would be totally illegal in Belgium⁴² :

- **Article 7 of the Act to suppress certain acts inspired by racism or xenophobia** (known as the "Anti-Racism Act") of 18 August 1981 states: "*Any direct distinction based on an alleged race, skin colour, descent or national or ethnic origin constitutes direct discrimination, except in the cases referred to in articles 8, 10 and 11⁴³ . Any direct distinction based on nationality constitutes direct discrimination, unless it is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Under no circumstances, however, can the first paragraph be used to justify a direct distinction based on nationality which would be prohibited by European Union law.*"⁴⁴

⁴² Belgian law applies within the European Parliament in Brussels.

⁴³ An analysis of these articles, which are limited in scope, is not justified in the context of this report.

⁴⁴

[http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&la=F&cn=1981073035&table_name=loi&&caller=list&F&fromtab=loi&tri=dd+AS+RANK&rech=1&numero=1&sql=\(text+contains+\(%27%27\)\)#LNK0006](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?language=fr&la=F&cn=1981073035&table_name=loi&&caller=list&F&fromtab=loi&tri=dd+AS+RANK&rech=1&numero=1&sql=(text+contains+(%27%27))#LNK0006)

- **Article 191 of the Belgian Constitution** states: "*Any foreigner on Belgian territory enjoys the protection accorded to persons and property, subject to the exceptions established by law.*"⁴⁵
- Finally, **Article 2 of the International Covenant on Civil and Political Rights**⁴⁶, adopted in New York on 19 December 1966, states that: "*The States Parties to the present Covenant undertake to respect and to ensure to all individuals within their territory and subject to their jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*". And **Article 19**: "*No one shall be molested for his opinions. Everyone has the right to freedom of expression; this right includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*". **Article 20** of the same Covenant states: "*All propaganda in favour of war shall be prohibited by law. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.*"

The pact was signed by Belgium on 10 December 1968 and ratified by Lebanon on 3 November 1972.⁴⁷

Since the law is a set of rules of unequal value (depending on the authority of the body that established the rule), it is governed by a "**hierarchy of norms**"⁴⁸ that establishes which rule has primacy. And it is generally accepted that international law (embodied in conventions and treaties) takes precedence over national law. As Lebanon has ratified the "International Covenant on Civil and Political Rights", it could therefore be argued that **Mr Omar Harfouch, even if he had knowingly taken part in an event attended by Israeli nationals or residents, would in fact have obeyed a legal standard higher than Lebanese law.**

➤ **The ethical position of Mr Omar Harfouch**

Over and above the legal aspects we have just raised, which prohibited him from asking about the origin or nationality of the people attending the conference, Omar Harfouch insists on a **strong ethical position**: "*I say over and over again that I refuse to ask who, among the people I meet or see, is Israeli or Jewish. On what basis would I do that? Physical appearance? A family name? **If I agreed to do this, I would be nothing more and nothing less than a racist and an anti-Semite. I would never do that...***"⁴⁹

⁴⁵ https://www.senate.be/doc/const_fr.html

⁴⁶ <https://www.unia.be/fr/legislation-et-recommandations/legislation/pacte-international-relatif-aux-droits-civils-et-politiques>

⁴⁷ https://fr.wikipedia.org/wiki/Pacte_international_relatif_aux_droits_civils_et_politiques#Premier_protocole

⁴⁸ <https://dictionnaire-droit-humanitaire.org/content/article/2/hierarchie-des-normes/#:~:text=In%20international%20law,only%20sources%20from%20international%20law.>

⁴⁹ Interview with Omar Harfouch, 22 May 2023.

6- The denunciation of the facts by the daily *al-Akhbar* and its aftermath

In the days following the conference, the daily *al-Akhbar* (see notes "1" and "2" above) violently denounced the participation of Mr Omar Harfouch in a conference in a room where there were "Jews", "Zionists", "pro-Israelis" and "Israelis" (note, but it is not really a surprise, **the anti-Semitic nature of the accusations** made by *al-Akhbar*).

According to the daily, Omar Harfouch should have realised the situation and left the room immediately.

Several political parties subsequently lodged complaints against him.

While travelling in New York, Mr Harfouch learned at the last minute (while on a flight to Beirut via Dubai) that, on the orders of the Prime Minister, an arrest warrant had been issued for him, and he had to interrupt his trip.

In his eyes, as he told us, the aim was clear: *"As soon as I arrived, I would have been arrested and transferred to a prison, probably in Tripoli, my home town. The prison cells in Tripoli usually hold dozens of people in 10 or 20 square metres. I could have been held there for days, weeks or months without trial and without even meeting a magistrate or having the right to see a lawyer. And I would obviously have been in mortal danger. The aim of this manoeuvre was obvious: it was, **no more and no less, to get rid of me...**"*⁵⁰

7- Other cases of Lebanese citizens prosecuted for the same reasons

Far from it, Mr Harfouch is not the only Lebanese citizen being prosecuted for having contacts or maintaining relations with Israeli citizens or residents.

Here are a few cases in point:

- **Carlos Ghosn**: when the former Renault-Nissan boss arrived in Lebanon after fleeing Japan, a group of Lebanese lawyers asked the public prosecutor's office to start proceedings against him because of a trip he had made to Israel. As part of his duties and a partnership to launch an electric car, Carlos Ghosn visited Israel in January 2008, and was even received by the then President and Prime Minister, Ehud Olmert and Shimon Peres. **In November 2020, the public prosecutor announced that Mr Ghosn would not be prosecuted because the statute of limitations had expired**⁵¹.
- **Ziad Doueiri**: in 2017, the Franco-Lebanese director had problems with the Lebanese courts over scenes from his film *"The Attack"* shot in Israel with Israeli actors. He was tried before a military court and his case was **eventually dismissed**⁵².
- **Kinda el-Khatib**: a Lebanese activist, she was charged in June 2020 with having contacts with Israeli nationals and was accused of "espionage". According to those

⁵⁰ Interview with Omar Harfouch, 22 May 2023.

⁵¹ <https://libnanews.com/affaire-classe-pour-carlos-ghosn-suite-a-sa-visite-en-israel/>

⁵² <https://www.middleeasteye.net/news/french-lebanese-director-released-after-arrest-over-filming-israel>

around her, she was accused above all of taking a critical stance towards the then President of the Republic, General Michel Aoun, as well as towards Hezbollah and the Lebanese establishment. **Sentenced to three years in prison by a military court, she was released on 16 March 2021 pending appeal⁵³.**

Other personalities have been **violently attacked by certain media or political parties (including Hezbollah) but have not been prosecuted**. These include :

- **Bechara Boutros al-Rahi**, Maronite patriarch, criticised following a trip to the Holy Land in May 2014.
- **Salwa Akar**: "Miss Lebanon" was denounced for posing for a photograph alongside "Miss Israel" (Dana Zriek) in the Philippines in October 2018. She was stripped of her title but had not been prosecuted⁵⁴.
- **Amin Maalouf**: in June 2016, the famous French-Lebanese author and member of the Académie Française was the target of violent criticism after giving an interview to the Israeli channel *i24*.

8- In conclusion

We believe that we have **demonstrated, beyond any doubt**:

- That **Mr Omar Harfouch has not committed the "offence"** of which he is accused by the Lebanese authorities and that no charge of "treason" can be brought against him;
- That **Lebanese laws governing relations with Israeli nationals or residents are obsolete, no longer correspond to contemporary realities and are, moreover, rejected by a large part of Lebanese society**;
- These laws also **contradict international law** and agreements signed by Lebanon;
- **Mr Harfouch's moral position, which rejects any selection on the basis of nationality or religion, is not only eminently respectable but can't be attacked**;
- There is no doubt that **these laws are used, at the whim of the Lebanese state, as a tool for the political repression** of any "dissident" or simply critical attitude towards the authorities;
- That **military justice is just one of the instruments used to carry out this political repression**;

⁵³ <http://libnanews.com/en/liban-une-activiste-condamne-a-3-ans-de-prison-pour-collaboration-avec-israel/>

⁵⁴ https://www.huffingtonpost.fr/international/article/une-miss-liban-perd-son-titre-a-cause-d-une-photo-avec-miss-israel_133303.html

- That **this use as a tool of political repression is particularly evident in the case of Omar Harfouch**, who is under attack for fighting corruption and denouncing the corruption of the Lebanese "elites" (in particular his denunciations of Prime Minister Najib Mikati and the Governor of the Banque du Liban Riad Salameh);
- That this political persecution is **very probably coupled with a desire to create a diversion** at a time when the Lebanese "justice system", remarkably efficient and diligent when it comes to prosecuting Omar Harfouch for a non-existent or questionable offence, is incapable of shedding light on the destruction of part of Beirut by the terrible explosions of 4 August 2020 or of prosecuting men who, like Riad Salameh, are suspected of serious corruption;
- That there is no doubt that, on the one hand, **Mr Harfouch could not benefit from a fair trial in Lebanon and that, on the other hand, the charges brought against him endanger his physical safety and that of his family.**

In conclusion, we underline :

- That the European authorities (and in particular the French authorities, since the person concerned has been resident in France for thirty years) should use all their powers to demand that Lebanon cancel the arrest warrant issued for Mr Omar Harfouch;
- That they should enter into a sustained dialogue with Lebanon to ensure that the military courts are abolished or, at the very least, that their jurisdiction is reduced to trying offences or crimes committed by military personnel in the performance of their duties;
- That they should maintain firm pressure to ensure that the various ongoing investigations into corruption (the explosion in the port of Beirut, the embezzlement charges against Mr Salameh, etc.) are brought to trial as soon as possible;
- In the absence of a concrete agreement on this point, the European authorities must examine the possibility, within the framework of the legal powers of the Member States of the European Union, of initiating the appropriate proceedings themselves.

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