

Lebanon could face sanctions if Mikati withdraws from Tribunal

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Analysts warn country would violate international, U.N. law if Cabinet backtracks

BEIRUT: Lebanon would violate international law and could face U.N. sanctions if Prime Minister-designate Najib Mikati's government withdraws from agreements with the Special Tribunal for Lebanon, a number of legal experts said Wednesday.

A tribunal spokesperson said that Lebanon was bound to cooperate with the court under Chapter VII of the U.N. Charter, which stipulates that all U.N. member countries must provide "assistance" in carrying out decisions of the U.N. Security Council.

The Security Council established the tribunal in Resolution 1757 of May 2007, while differences over stances toward the court among Lebanon's polarized political factions brought down the Cabinet of caretaker Prime Minister Saad Hariri last month.

"What we see are obligations on the state of Lebanon; we obviously come under Chapter VII," said the STL spokesperson. The spokesperson declined to answer repeated questions about whether the tribunal was forming contingency plans for Lebanon's potential halt to cooperation.

Mikati was nominated by politicians siding with the Hezbollah-led March 8 alliance. Hezbollah leader Sayyed Hassan Nasrallah has said the court is part of a U.S. and Israeli conspiracy to weaken the group, and he called on all Lebanese to boycott any cooperation with the tribunal.

Sari Hanafi, professor of transitional justice at the American University of Beirut, predicted that any Cabinet led by Mikati would seek to end Lebanon's collaboration with the STL. Whether through the government or Parliament, the country could withdraw from its agreements to pay 49 percent of the court's costs, provide judges and cooperate on investigations, Hanafi added.

If Lebanon ceases to cooperate with the tribunal, the country would "absolutely" be breaching its international obligations as a member of the U.N., Hanafi said. "Lebanon will be in violation of international law," he said, adding that the March 8 bloc "doesn't care whether it is an infraction or not."

By violating international law, Lebanon could face sanctions such as those imposed on isolated nations such as Iran and North Korea, Hanafi said.

From the perspective of international law, the arrival of a new government does not provide any legal basis for revisiting a country's international obligations, said Said Benarbia, legal adviser to the Middle East and North Africa program at the International Commission of Jurists, based in Geneva.

"A change in governments … is not a legitimate reason to change the state's engagements," Benarbia said. "If governments are to repeal their international agreements every time there are elections or a change in government, the whole international system [would] collapse."

Benarbia added that the "intimidation" raining down from many sides on the court was unacceptable. "All interference in judicial matters is unacceptable," he added.

However, a number of factors could stop the international community from turning Lebanon into a pariah state should it cease working with the court, Hanafi said. For instance, with the March 8 camp's close ties to Iran and Syria, the influence of the U.S. and its Western allies has waned considerably here, and so they do not have many means to punish Lebanon effectively, Hanafi added.

"The impact of the [backlash] against Lebanon will be minimal," he said, adding that he had recently told a Canadian diplomat the same thing. "The U.S. and France don't have any leverage against Lebanon." Saudi Arabia, on the other hand, still has enough sway here to affect the country's stance toward the STL, Hanafi added.

In addition, sanctions would be misdirected, because they would likely wind up hurting Lebanon's middle class, half of which supports the tribunal, Hanafi said. In any case, Washington could well be preoccupied with the situation in Egypt for the near term, leaving it less likely to focus intently on Lebanon, Hanafi said.

Former Ambassador Abdallah Bou Habib, head of the Issam Fares Center, a nonpartisan think tank, said that regardless of the success of any sanctions, any future Mikati-led Cabinet should not disrupt the country's collaboration with the court so as not to damage Beirut's international standing.

"This is important to Lebanon to be part of the world community," he said. "They should not touch the STL and Lebanon's international agreements and commitments."

Mikati's prospective government would not need to take any rash steps against the STL, because the protocol on cooperation between the country and the U.N. is set to expire in March 2012, Bou Habib added. Aside from Chapter VII concerns, negotiations later this year to renew that agreement would offer plenty of opportunities to limit or amend the range of cooperation, Bou Habib said.

The much-discussed option of severing Lebanese funding for the court also stands moot until the end of 2011, because the country has already sent in its share for the tribunal's \$65.7-million budget for this year, Bou Habib said.

The tribunal spokesperson could not confirm whether the court had received the payment but did say that Lebanon was bound under Chapter VII to honor its commitment to supply this share of the court's funding in its first three years. "When it comes to funding, the obligation on Lebanon is very clear, and it's under Chapter VII of the U.N. Charter," the spokesperson said.

If Lebanon cuts off further funding for the court, the U.N. will take over the hunt for substitute money to keep the tribunal running, Benarbia said. "It would be up to the U.N. to guarantee the continuity of the tribunal," he said. "It's the responsibility of the international community and even the U.N. to ensure the continuation of the tribunal."

Hanafi said wealthy nations that backed the tribunal's mission would have little trouble making up for the loss of Lebanon's roughly \$32-million contribution. Hanafi added he was "extremely surprised" the STL employed over 300 staff and said the budget could certainly be pared down.

As for the four Lebanese jurists among the tribunal's 11 judges, they could choose to stay on at the court even if Lebanon backed away from its agreements with the STL, Bou Habib said.

In the end, participation is not essential for judges from the countries under the jurisdiction of international tribunals, Hanafi said. For example, Serbia did not provide judges to — and under former President Slobodan Milosevic did not cooperate with — the International Criminal Tribunal for the former Yugoslavia, while no Rwandan judges sit on Rwanda's tribunal, Hanafi added.

In the end, however, tribunal Prosecutor Daniel Bellemare has submitted his indictment in the assassination of former Prime Minister Rafik Hariri, and so any machinations by Lebanon regarding its relationship with the court will not prevent a trial — even with the accused absent — and the release of evidence about the killing, Bou Habib said.

"Lebanon, no matter what it does, cannot stop the indictment from coming," he said.

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