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Proceedings of the Workshop on Strengthening Parliamentary Financial Oversight

Lebanese Parliament
26 April 2012



Introduction

The Lebanese Parliament and Westminster Foundation for Democracy organized a workshop entitled “Strengthening Parliamentary Financial Oversight” on April 26, 2012. This workshop falls within the Memorandum of Understanding signed between the two institutions in the context of the joint programme, funded by the European Union.

The workshop was characterized by the presence of a large number of MPs, Directors General, judges, auditors and inspectors from the Court of Audit, representatives of concerned ministries and a number of experts.

The one-day workshop covered three sessions: the legal and organizational frameworks of financial oversight in Lebanon, the path to modernize the oversight process, and the adoption of a series of recommendations aimed at strengthening financial oversight in Lebanon.

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First Session

10:15 - 11:00 am

Defining the Legal and Organizational Frameworks of Financial Oversight in Lebanon



Speaker and chair of session
MP Ibrahim Kanaan,
Head of the Budget and Finance
Parliamentary Committee

Speakers
Judge Aouni Ramadan,
Head of the Court of Audit
Mr. Ian Rogers,
National Audit Office of the UK

MP Ibrahim Kanaan

Head of the Budget and Finance Parliamentary Committee

Prerogatives of the Parliament and the Budget and Finance Parliamentary Committee with Respect to Parliamentary Financial Oversight

MP Ibrahim Kanaan began the session by welcoming the participants and by setting up the general framework of the workshop, which falls within the ongoing collaboration between the Lebanese Parliament and the Court of Audit on the one hand, and Westminster Foundation for Democracy and National Audit Office of the UK, on the other. Kanaan hoped that this workshop would contribute to strengthen parliamentary oversight especially that the Parliament is in dire need to enhance this aspect of its work given the current challenges with respect to the budget, financial accounts, and the actual oversight over the executive authorities.

After the welcome note, MP Kanaan presented the role of the Lebanese Parliament and the Budget and Finance Parliamentary Committee in setting the legal and organizational frameworks of financial oversight in Lebanon. He explained that this role encompasses legislation and oversight, investigation and accountability, consultancies and elections.

As for the Budget and Finance Committee, Kanaan noted that it studies project laws and proposals and practices parliamentary oversight over the activities of the government, particularly those related to financial matters, before, during and after execution. Articles 81 through 89 of the Lebanese Constitution cover public finances and financial oversight. The internal bylaws of the Lebanese Parliament set the rules of practicing parliamentary oversight and the Public Accounting Law gives the Lebanese Parliament and the Budget and Finance Committee some prerogatives.

MP Kanaan detailed in his presentation the legal aspects of tax legislation pertaining to their imposition, amendment or cancellation. He also discussed legislative decrees in

general and customs legislation in particular, asserting the rights of the Parliament in amending those when the public interest calls for that. Kanaan reminded the audience about the budget as mentioned in the Public Accounting Law and the items related to exceptional allocations and additional allocations and the transfer of allocations, pointing out to the timelines that bind the budget proposal.

Kanaan added that the Constitution restricts the right to the Parliament in passing the budget, allowing the Government to issue it by a decree. But this is contingent on three main conditions: the Cabinet should have presented the budget proposal to the Parliament fifteen days prior to the beginning of the October cycle, the Parliament should have been given enough time to study the budget proposal, and the Cabinet should publish the budget as it has presented it to Parliament. The Parliament was bound by having its right to amend the proposed expenditures restricted to amendments within the proposed total ceiling. However, the Constitution gave the Parliament the right to pass law proposals presented by MPs that propose new expenditures. The



Budget and Finance Committee and the Parliament also have the right to increase the value of total expenditures in the proposed budget and the proposed additional allocations after asking for the written opinion of the Ministry of Finance and the approval of the Council of Ministers.

As for the right of the President of the Republic in issuing a decree to open exceptional or additional allocations or to transfer allocations, it is bound by three concurrent conditions: the allocation should be to cover urgent expenditures; it should also be within a maximum limit set annually in the budget law; the measure should be subject to the approval of Parliament.

Kanaan also discussed the issue of lending and borrowing and asserted the role of Parliament in approving the commitments whether they were general loans or treasury advances.

With respect to financial oversight during the budget execution, the Parliament has the right to ask the Cabinet for clarifications or particular information during the year through oral and written questions and interrogations. It also has the right to call the Government

to parliamentary committees' sessions to listen to its opinion on specific issues. The Government also resorts to parliamentary approval to open additional allocations or to sign loan agreements. On another front, the Central Inspection Office and the Court of Audit provide the Parliament with a copy of the cyclical reports pertaining to the budget execution. The Parliament has the right to set up parliamentary committees for investigating certain financial issues.

With respect to parliamentary oversight after budget execution and which relates to the final closing of accounts, MP Kanaan reminded the audience about the timelines imposed by the law on the Government; he also reminded the audience that the parliamentary oversight on the budget's closing of accounts is a result of the authorization to spend and to collect revenues granted by the Parliament to the Cabinet, in addition to spending through treasury advances.

It has been a general practice that the Parliament often approves the closing of accounts and that the Ministry of Finance is often late in submitting the closing of accounts and the Court of Audit is often late in presenting its reports on the accounts and in presenting the reconciliation sheets. This has deprived the parliament from the main tools necessary to audit the closing of accounts and to oversee the final accounts and the Government's general account. Kanaan reminded the audience that the external loans and grants and the expenditures from those have been excluded from the scope of the budget, in violation of the law. In conclusion of his intervention, MP Kanaan listed the most important achievements of the Budget and Finance Committee during his presidency, with respect to legislative work, studying draft laws that have financial implications, and listening to the authorities responsible of monetary and fiscal policies and education and equitable development policies. The Budget and Finance Committee should be lauded for its efforts with respect to the closing of accounts since 1993 and that culminated in establishing a sub-committee for fact finding.

Judge Aouni Ramadan

Head of the Court of Audit

The Relation Between the Court of Audit and the Parliament

The head of the Court of Audit (COA hereafter), Judge Aouni Ramadan started his intervention by reminding the audience about article 87 of the Lebanese Constitution that depicts the COA as a body initially created by the constitutional legislature that audits accounts to support Parliament in its financial oversight process. Ramadan discussed the establishment and organization of the COA, noting that today the court is within the category of supreme audit institutions over financial matters with judicial powers, and that it administratively falls under the Presidency of the Council of Ministers and not the Parliament, but not functionally or in terms of presidency.



Ramadan conversed about the functions of the COA and explained that in addition to its main function of auditor of the Government's closing of accounts and deciding on the accuracy of these accounts and sending comments to the Parliament, the COA also practices administrative ex-ante and ex-post oversight of expenditures and revenues, judicial oversight over employees that break the fiscal laws and rules. By doing so, it follows the budget execution process and sends its reports to Parliament; which are followed up by the Budget and Finance Committee.

As for oversight on accounts, the COA oversees the closing of accounts and drafts a report on the budget execution including its observations and recommendations before presenting it to Parliament. The report would include the following elements: deciding on the accuracy of the numbers with respect to revenues and expenditures or the balance sheet; noting that the last time the COA was given these numbers was in 2000 and that the last closing of accounts dates back to 2007.

Ramadan detailed the elements that the COA follows in the audit process and that fall under the efforts to improve the performance of the public financial administration. The COA informs the Parliament about the results of the audit, so that the latter could decide accordingly the authorization that it would give the executive in the following year in terms of expenditures and revenues.

Ramadan emphasized that the importance of the COA's audit stems from its impartiality and from the fact that it supports Parliament in fulfilling its full role

within the principal of separation of powers, their complementarily and their collaboration.

With respect to the reports, Ramadan explained that the COA fulfills its role in what would resemble oversight of performance, evaluating the financial performance of the administration, and incorporating in its annual and special reports recommendations and suggestions that would help achieve savings, surpluses and efficiency. In addition to its annual report, the COA prepares special reports not linked to a particular period or related to specific topics, in an aim to pinpoint irregularities and propose adequate recommendations. Ramadan enumerated a number of reports issued by the COA on budget execution and annex budgets, and the reports included a study and an analysis of budget allocations as they were executed and distributed.

At the end of his intervention, Ramadan expressed the necessity of enhancing the relation between the Parliament and the COA and its elaboration in legal texts and the emphasis on benefiting from the common efforts of observing the preparation of accounts. He also highlighted on the importance of giving the COA a role in the sessions of budget discussions within the Budget and Finance Committee and in the General Assembly, as well as putting a procedure to present the reports to the committee and following up on the implementation of the recommendations. He also proposed writing a protocol that defines the roles of each entity and helping parliamentarians prepare the questions and clarifications and listening to the COA's opinions when discussing laws that have financial implications.

Mr. Ian Rogers

National Audit Office of the United Kingdom

Role and Mission of the National Audit Office in the Financial Oversight Process

Rogers considers the British experience in financial oversight, which dates back to 150 years, as a mature, comprehensive and transparent experience. In effect, all financial reports are available in details on the website of the Treasury. Rogers gave a brief insight on the British parliamentary system, a dual system in which two types of parliamentary financial oversight are exercised. The first is financial oversight of the budget process, when the House of Commons approves the Budget Law; the latter being a translation of the Government's policy and its detailed assessment of the economy, revenues and taxes. The second is the financial oversight of Government expenditure, or how Government departments and ministries have used public money.



Rogers also introduced the National Audit Office (NAO hereafter), which employs today around 880 accountant, economist and researcher, but no judges; main point of difference with the Lebanese Court of Audit. He explained that the mission of the NAO is to produce three different types of reports: financial audit reports, value for money reports, and specific programme reports related to management of public resources.

The NAO yearly audits 450 accounts, as in it audits the financial statements of ministries, governmental agencies and other public bodies funded by the central Government. In effect, every administration has to submit its financial reports to be audited before the 31st of March of each year. The NAO has then four months, i.e. until the end of July, to submit its final financial audit report. If need be, the NAO can be assisted by private audit offices to accomplish its assigned tasks. Rogers considers that the importance of this work lies in its continuous nature. Moreover, the use of up to date information enables the preparation of targeted public budgets for the subsequent year.

As for value for money audit reports, the NAO produces around 60 of these specialized reports per year, which are usually associated to specific programmes. As such, the NAO ensures whether a program has met its

objectives and whether value for money has been secured at a national level. Such reports have been done for information technology programs for example. Rogers then gave a brief summary of the specific reports related to management of public resources, such as public assets or privatization projects.

Rogers also stressed on fact that all reports are published and are used by the Public Accounts Committee (PAC hereafter) at the House of Commons in the UK; based upon which evidence sessions are held and are attended by the Prime Minister and his Cabinet.

The NAO provides the PAC with detailed reports in addition to briefs, and questions that it could ask the Government. After each evidence session, the PAC drafts a detailed report about resulting decisions and recommendations, with the assistance of the NAO. The Government is then given four months to implement the recommendations and provide the PAC with justifications of their applications.

Rogers concluded by affirming that the importance of these reports lies in their impartiality, accuracy, professionalism and adequacy in responding to the needs of the House of Commons. The NAO could be considered as a good practice of achieving transparency, and the needed changes for efficient public financial management.

Second Session

11:15 - 12:30

The Procedure of Financial Oversight and its Enhancement



MP Yassin Jaber opened the second session of the workshop reiterating thanks to Westminster Foundation for Democracy and the EU. He introduced the speakers and reminded the audience about the main experiences that the MPs gained when they visited the National Audit Office of the UK and the Public Accounts Committee of the House of Commons, not only with respect to auditing the accounts but also learning about the economic feasibility of expenditures. Jaber emphasized the importance of the role of the Court of Audit and the importance of enforcing its capacities because it is the chief and only administration that is able to support the Parliament in its oversight role. Jaber also reminded the audience that he already presented a proposal to increase the number of tenured employees at the COA and that the Government had promised a new draft law to modernize the work of the COA.

The Director General of Finance

Represented by **Mr. Youssef el Zein, Government Commissioner**

The Role of the Lebanese Administration in the Detailed Audit of the Public Finance

Mr. Youssef el Zein started his intervention by thoroughly detailing the implications of the two concepts “detailed audits” and “accounts”. He explained that the meanings of the words “audit” and “accounts” should not be restricted to their literal meaning so as to use their other implications related to the comprehensive oversight conducted by the Ministry of Finance on public institutions and public administrations.



El Zein pursued his intervention by discussing the goals of audit according to each phase: during the budget preparation phase, audit aims at observing the appropriateness of allocations with the expenditure accounts; during the budget execution phase audit aims at observing the legality of expenditures and revenue collection; audit ends after the closure of budget accounts by extracting financial results and showing them in the closing of accounts and the balance sheet.

El Zein listed the uncertainties that various departments face at different levels of the budget execution process. During the budget preparation phase, recurrent expenditures are not subject to a detailed audit unless the Government is in process of radical reforms. As for the audit approach with regards to investment expenditures, it becomes more detailed to determine the required allocations and the capability of the administrations to execute them to avoid carry-overs, especially that extensive carry-overs culminated in an accumulated budget deficit. El Zein reminded the audience about the sources of the budget numbers in Lebanon and the tables pertaining to it and the accounts held by the Ministry of Finance for every kind of revenues and separately for every year.

With respect to budget execution, the audit occurs through the controller of expenditure commitments who faces today, according to El Zein, a number of problems related to the discretionary prerogatives of

the Minister to segregate expenditures or the confusion resulting from spending on the basis of treasury expenditures and classifications of expenditures as has happened in 2011. As for the confusion related to the spending of the appropriations, it is associated with the issue of the administrative account and the nature of the timelines set by the public accounting law. The relevant question is: are these timelines to urge actions or to have state rights dropped by passage of time?

There are today, according to El Zein, a lot of factors coming into play at the closing of the fiscal year, linked to the IT center and the classification of transfers, especially when some transfers are lost, or when a mistake is discovered in them or when issues relate to the passage of time—resulting in the administration’s loss of the rights of verification. Other problems relate to the issue of the changes in classifications after the closure of the fiscal year, examples of which are loans and interest payments. As for the state of some accounts, El Zein spoke about difficulties arising from the temporary ledger account of expenditures or revenues that have not been settled afterwards.

El Zein concluded his intervention by listing some of the reasons that have led to the deterioration of the Ministry of Finance’s role today, whether due to the shortage in accountants and the growing role of technical assistance providers to fill the resulting gaps, the stagnation in the evolution of current financial laws and legislations.

Judge Elie Maalouf

Court of Audit

Effectiveness and Importance of Parliamentary Oversight and the Role of the Court of Audit in Auditing Public Accounts

The intervention of Judge Elie Maalouf focused on the parliamentary oversight and the role of the Court of Audit; so he presented the current state of affairs and suggested for each a list of suggestions to overcome current challenges. With respect to the Finance and Budget Committee, Maalouf reminded about the importance of the concepts of accountability and democracy, how the concept and content of the oversight over the budget has evolved in light of the growing role of the State in economic activity; noting the importance of modernizing the traditional oversight process (budget approval) to become a continuous follow-up from the Finance and Budget Committee. Maalouf specified the tools adopted by Parliament to audit the budget execution like oral and written questions, written questioning, petitions, complaints, votes of confidence and investigation committees.



Maalouf then listed a series of points that would render the role of the Finance and Budget Committee in Lebanon more effective:

- Defining, clearly and thoroughly, the duties of the Finance and Budget Committee and its relation with other committees and with parliamentary bodies and all audit bodies.
 - Strengthening the Finance and Budget Committee by appointing a number of technical employees, experts and experienced professionals.
 - Efficiently contributing in designing and preparing the systems of the internal and external audit bodies.
 - Working on disseminating the culture, concepts and standards of transparency, accountability and integrity in public institutions and audit bodies.
 - Following up on the work of administrations and not waiting for the budget.
 - Resorting to external expertise.
 - Setting an annual or cyclical work programs that take into account the priorities and goals of oversight.
 - Setting indicators to measure achieved outcomes both at oversight and performance levels.
 - Developing the ways of reaching economic, financial and fiscal information.
 - Linking Budget and Finance Committee with external audit bodies, in particular the Court of Audit.
 - Creating a unit/office that provides the Committee with the most accurate information and input and helps it in providing advice and opinions.
 - Exchanging expertise and knowledge with external bodies—countries and organizations.
- With respect to the Court of Audit, Maalouf its role in auditing accounts, including the administrative account, the closing of the budget account and the balance sheet. The oversight process encompasses oversight of the legality and legitimacy of transactions, auditing the accuracy of accounts and documents and their legitimacy, and monitoring performance. Maalouf concluded with a series of proposals to enforce the role of the COA:
- Rendering internal oversight more efficient.
 - Preparing and sending the accounts within the deadlines.
 - Training and development, computerization and adding capacities at the COA and concerned administrations.
 - Rendering external relations more efficient, benefiting from exchanges of expertise and sharing them internally at COA and concerned administrations.
 - Rendering external oversight more efficient: increasing penalties, solving problems in the accounts.
 - Setting a methodology to follow-up reports issued by the COA (involve the Parliament).
 - Measuring the performance of the COA and defining a method to audit its work (peer review: resorting to a partner agency or an experience international peer agency).
 - Strengthening independence while building partnerships and transparent relations with the Parliament and the Executive power.
 - Continuously modernizing and setting frameworks that govern oversight of performance and practical guides that facilitate the job.
 - Developing an adequate human resources strategy: training, recruiting, disciplining and retaining employees.

Third Session

13:00 - 14:00

General Discussion and Recommendations



MP Ibrahim Kanaan opened the session, praising the communication between all parties dealing with fiscal, legal, legislative and oversight functions. With regards to the question asked by MP Yassin Jaber to Ian Rogers on how to render the decisions of the Lebanese COA or the decisions of the National Audit Office binding decisions, Rogers clarified that in Britain, when the Committee issues its recommendations, the Government implements or tries to implement almost all of them. If the Government fails to do so, the Committee then asks the Government's representatives a question or an interrogation to encourage them to apply them. In the UK, the media plays an important role as it can act as a pressuring force by highlighting the recommendations and their non-implementation. The House of Commons can also organize a debate over the topic that might in some cases force a Minister to resign, depending on the number of recommendations and their importance. The implementation of recommendations issued by the National Audit Office is considered a consensual issue and its non-application or non-consideration by the Ministers is embarrassing.

Below are the key recommendations proposed by the participants on how to benefit from the Court of Audit's reports and how to effectively implement the recommendations included in those reports:

- The participants stressed on the importance of having the decisions of the Court of Audit in Lebanon as binding decisions, similar to the French system, while respecting the prerogatives of the State Council. Representatives of the COA noted that work is underway in collaboration with OMSAR on a project law to amend the internal bylaws and procedures of the COA.
- With respect to judicial decisions, which are rulings on employees, while they are legally binding, there is a need to design a clearer and a better executable implementation procedure.
- On another note, representatives from the Court of Audit suggested an amendment to article 64 that discusses "informing the Parliament of irregularities" and having it develop into a procedure of reporting to the President, the Speaker and the Prime Minister as well as the members of parliament individually and the media if need be, in addition to the need of discussing how to enhance the role of the Supreme Court to put Presidents and Ministers on trial or to find an alternative procedure to sue high level officials in court.
- The importance of benefiting from the COA's value for money reports;
- The need to include in the COA reports clear and well-written executive summaries listing major irregularities;
- The need to consider the timelines set in the laws and procedures pertaining to the preparation and sending of accounts to the COA and the Parliament as binding timelines or statutes of limitation that cannot be exceeded without having performed the requested tasks.
- The adoption of all of Judge Elie Maalouf's recommendations stated during his intervention on enhancing the roles of the COA and the Budget and Finance Committee.
- MP Ibrahim Kanaan concluded by thanking the COA for attending the workshop and formulating recommendations. He hoped parliamentary oversight would be properly enhanced.

Action points defined between Westminster Foundation for Democracy, the National Audit Office, and the Budget and Finance Committee within the framework of the joint programme (and as a result of exchanged visits)

Throughout the workshop, MP Kanaan briefed the attendees about the current cooperation between the Budget and Finance Committee, the Westminster Foundation for Democracy, and the National Audit Office of the UK, and presented the key recommendations that were agreed upon:

- Improving the relation between the Budget and Finance Committee and the Court of Audit similar to the relation between the National Audit Office and the Public Accounts Committee in the House of Commons, through workshops and study tours.
- Preparing rules and procedures that define the relation between the Committee and the Court, and approving those.
- Benefiting from the expertise of the Court of Audit to support the Advisory Unit similar to the model of support between the National Audit Office and the Scrutiny Unit of the House of Commons.
- Publishing annual reports of the Budget and Finance Committee.