

# Country Review Report of the State of Palestine on the Implementation of Chapter II “Preventive Measures” & Chapter V “Asset Recovery” of the United Nations Convention against Corruption





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**2018**

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## Introduction

The State of Palestine acceded to the United Nations Convention against Corruption (UNCAC) following the deposit of its instrument of accession with the Secretary General of the United Nations on 2 April 2014. The Convention took effect in May 2014. Accession to the UNCAC gives rise to a set of obligations, including alignment of the State Party’s legislation, policies, and procedures with the provisions of the Convention. The State of Palestine ratified the UNCAC, which entered into force one month following ratification. However, the UNCAC has not been adopted as a national law, nor has it been published in the Palestinian Official Gazette. The provisions of the UNCAC have not, therefore, been binding on relevant persons in line with the constitutional and procedural requirements of the operative legal framework.

The anti-corruption framework comprises provisions from several laws including the Anti-Corruption Law, Penal Procedure Law, Anti-Money Laundering and Anti-Terrorism Law, Penal Law No. 16 of 1960 applicable in the West Bank, and the Penal Laws No. 69 of 1953 and No. 74 of 1936 in force in the Gaza Strip. Courts are divided into ordinary courts, religious courts, and military courts.<sup>1</sup> Palestine has also established specialised courts and prosecutions, mainly the Anti-Corruption Prosecution, Corruption Crimes Court, and Palestinian Anti-Corruption Commission (PACC).<sup>2</sup>

According to an agreement between the State Parties to the UNCAC, the State of Palestine is committed to providing a two-cycle review process, which governmental experts from two State Parties carry out to ensure compliance with the provisions of the Convention. The State of Palestine completed the first cycle of the review in 2015. For the review cycle 2010-2015, implementation by the State of Palestine of Chapter III “Criminalisation and law enforcement” and Chapter IV “International cooperation” of the UNCAC was reviewed by Micronesia and Oman. The review was completed successfully by the State of Palestine. In addition to the Executive Summary, the full report was published on the websites of both the United Nations and the PACC.

At the beginning of 2018, under the supervision of the United Nations Office on Drugs and Crime (UNODC), preparations have been made to initiate the review of the second cycle. The review will address the implementation by the State of Palestine of Chapter II “Preventive measures” and Chapter V “Asset recovery” of the UNCAC by Burkina Faso and Malaysia. A government committee, including 18 anti-corruption experts from several line ministries and government bodies, has been established. The list of experts was posted on the UNODC website.<sup>3</sup> Committee members filled out the evaluation form on the UNODC database. The form was sent to Burkina Faso and Malaysia, which will review implementation by the State of Palestine. A meeting was held between the committee and State Party representatives to receive comments on the report in mid 2018. In January 2018, a training workshop was organised to provide capacity building to the State of Palestine’s governmental group of experts at the Rule of Law and Anti-Corruption Center in Doha. The workshop was designed to support continued efforts of the Palestinian government to implement the UNCAC in accordance with relevant international standards.<sup>4</sup>

This report examines the State of Palestine’s implementation and compliance with Chapters II and V of the UNCAC, including a review of relevant legislative and practical aspects. To achieve its desired goal, the report comprises two sections and explores how consistent the Palestinian legal and practical contexts are with the UNCAC chapters under review. These are Chapter II “Preventive measures” and Chapter V “Asset recovery”. To this end, the

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1 Country Review Report of the State of Palestine: Review by Micronesia (Fed. States of) and the Sultanate of Oman of the implementation by the State of Palestine of articles 15 – 42 of Chapter III. “Criminalisation and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015

2 Ibid.

3 [http://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/SecondCycle/Palestine\\_E.pdf](http://www.unodc.org/documents/treaties/UNCAC/IRG-Experts/English/SecondCycle/Palestine_E.pdf).

4 <http://www.maannnews.net/Content.aspx?ID=938209>

report is informed by a descriptive, analytical approach, providing comments on each chapter and investigating gaps in implementation in the Palestinian context. The author also uses research tools, including instructions to answer the comprehensive self-assessment checklist of the UNODC. The researcher also provides a review of the Palestinian legal frameworks relating to the UNCAC chapters, information published by official Palestinian sources, reports released by AMAN,<sup>5</sup> and annual reports of relevant public institutions. Some interviews have also been conducted with specialists.

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<sup>5</sup> AMAN is a Palestinian civil society organisation and works towards promoting the principles of integrity, transparency and fight against corruption. AMAN is a member of Transparency International.

## Chapter II

### Preventive measures

#### Preventive anti-corruption policies and practices

Each State Party shall develop and implement or maintain effective, coordinated anti-corruption policies, promote the participation of society, have explicit and full support by executive officials, and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability (Article 5 of the UNCAC).

According to Article 5 of the UNCAC, on 21 February 2017, the Palestinian government adopted and approved the National Policy Agenda (NPA) 2017-2022: Putting Citizens First as an official document to promote accountability and transparency and ensure effective, efficient public financial management at public institutions. Although it provides the general framework of national policies, the NPA does not include detailed policies and practical processes. Subsequently, the government approved a number of sector and cross-cutting strategies, including the Public Financial Management Cross-cutting Strategy and Civil Service Sector Strategy. The NPA also provides an assessment tool to track progress on a regular basis, including by means of quarterly and annual reports to examine implementation results. This furnishes an entry point to hold the government to account for policy implementation and improve the role of oversight bodies, particularly the State Audit and Administrative Control Bureau (SAACB). The government was informed by extensive consultations with civil society organisations, which provided significant comments and input on several aspects of the NPA.

Under the NPA, National Policy 9: Strengthening Accountability and Transparency highlights the promotion of integrity. In particular, a Code of Conduct and Ethics for the Palestinian Civil Service will provide a tool to materialise the values of integrity as well as an institutional foundation for ethical government. The NPA also provides for institutionalising government bodies’ commitment to and implementation of the Code of Conduct. The government will provide training on and make every effort to promote the Code.

The NPA embraces the principle of strengthening transparency in government functions, including the right of access to information. The Agenda also stresses the principle of open, transparent government.<sup>6</sup> It is worth noting that the Palestinian government joined the Open Government Partnership initiative and, in 2015, the Council of Ministers approved the establishment of a national team to join the initiative.<sup>7</sup> Nonetheless, neither pledges nor confirmations to enact a Law on the Right of Access to Information have been fulfilled until the time of writing. This is also the case of the Law on National Archive. Having undergone significant amendments, the 2012 Draft Law on National Archive is still pending approval at the President’s Office. Since April 2017, the Council of Ministers has no longer posted the decisions it makes on its official website.

On 28 July 2016, based on a decision from the Council of Ministers, a government committee was established to communicate and partner with civil society organisations. However, since it was formed, the committee only convened twice. It only invited some civil society organisations on a selective basis, which did not reflect a real participatory approach between the government and civil society. Also, the Minister of Finance and Planning did not engage civil society organisations in discussions of the 2018 Budget Proposal.

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<sup>6</sup> NPA, p. 31.

<sup>7</sup> The Open Government Partnership initiative was jointly launched by the United States and Brazil in 2011 to promote participatory democracy by improving government institutional performance and strengthening integrity and transparency in public financial management.

In spite of implementation gaps, the NPA, particularly National Policies 9 and 10, can be a step forward to promote transparency and accountability, preserve and prevent wasting public finance, and fight corruption

On 3 August 2015, the PACC launched the National Anti-Corruption Strategy 2015-2018. The Strategy covers four focus areas: (1) Prevention of corruption; (2) Law enforcement and prosecution; (3) Awareness raising, education, training and community participation; and (4) International cooperation.

To implement the National Anti-Corruption Strategy, in 2017, the PACC carried out a set of activities in cooperation with many government bodies and civil society organisations, particularly focusing on introducing the Anti-Corruption Law and financial disclosure statements to be submitted by relevant persons.

### Comments on implementation:

Despite the fact that the NPA 2017-2022 and National Anti-Corruption Strategy 2015-2018 are in place, a comprehensive, objective and participatory government national cross-cutting strategy on the fight against corruption has not so far been developed. The strategy should be compiled, implemented and overseen jointly by government bodies, representatives of civil society organisations, and private sector. It will include an annual executive plan, making clear specific activities and interventions for implementation as well as the role of every partner in line with clearly defined timeframes and reporting mechanisms. Implementation results will be assessed in accordance with national planning mechanisms. It will also be approved by the Council of Ministers in tandem with the procedural rules for national planning. The absence of such a comprehensive plan results in uncoordinated efforts, individual initiatives and inadequate anti-corruption activity.

### Preventive anti-corruption body or bodies

Each State Party shall ensure the existence of a body that is responsible for preventing and fighting corruption, promoting international cooperation and technical assistance in the prevention of and fight against corruption, overseeing and coordinating the implementation of anti-corruption policies, and increasing and disseminating knowledge about the prevention of corruption. (Article 6 of the UNCAC)

The PACC was established in accordance with the provisions of Article 3 of the Anti-Corruption Law No. 1 of 2005. As an administratively and financially independent body, the PACC is vested with mandates and powers that enable it to perform anti-corruption functions independently and free from undue influence. Several agencies complement the role of the PACC, including prosecution staff detailed to the PACC (Anti-Corruption Prosecution) and Corruption Crimes Court. The Chair of the PACC is appointed by the President of the National Authority based on a recommendation by the Council of Ministers.<sup>8</sup> The PACC Chair and staff will enjoy immunity in all the functions they perform in the context of implementing their tasks. As provided by the Law, key tasks and powers endowed

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<sup>8</sup> In relation to the appointment of the PACC Chair, on 15 February 2017, President Mahmoud Abbas promulgated the Law by Decree No. 4 of 2017 on the Amendment of the Anti-Corruption Law No. 1 of 2005 as Amended. The Law by Decree exclusively amends Article 6(1) of the Anti-Corruption Law, which limits the term of the PACC chairmanship to a non-renewable period of seven years. The amendment adds a fourth paragraph Article 6, providing as follows: "Notwithstanding the provisions of Paragraph 1 of this Article, extension shall be permissible, by a decision from the President of the State, for the Chair of the Commission for a maximum term of two years." All regulations that contradict the provisions of this Law by Decree shall be repealed. The Law by Decree shall enter into effect as of the date of its promulgation and public in the Official Gazette. On the next day, 16 February 2017, the President issued forth a Presidential Decree. Article 1 of the Decree provides for the "extension for Mr. Rafiq al-Nathshah as Chair of the Anti-Corruption Commission for a period of one year." Article 2 of the Presidential Decree provides that the decision on extension for Mr. al-Nathshah shall enter into force on 9 March 2017. The decision shall also be published in the Official Gazette. A similar

on the PACC include investigating the complaints filed against corruption, validating suspicions of corruption committed by persons subject to the provisions of the Law, and keeping all the financial disclosure statements and requesting any information or clarifications relating thereto, examining the financial assets of the persons subject to the provisions of this Law, raising awareness of society, including all official and nonofficial bodies, of corruption risks and impacts on economic, social and political development, and providing insights into the prevention of and fight against corruption.<sup>9</sup>

In the context of preventing and counteracting corruption, the PACC role can be summed up as follows:

### 1. Launching the National Anti-Corruption Strategy 2015-2018

On 8 April 2015, the PACC announced launching the National Anti-Corruption Strategy 2015-2018. This is the second strategy to be released by the Commission since 2012. It targets four focus areas: (1) Prevention of corruption; (2) Law enforcement and prosecution; (3) Awareness raising, education, training and community participation; and (4) International cooperation.

### 2. Receiving corruption-related complaints, reports and cases

In 2017, the PACC received a total of 466 complaints and reports on corruption. Of these, 41 percent did not fall within the PACC jurisdiction, as provided by the Anti-Corruption Law. Complaints addressed abuse of power (11 percent), exploitation of public office (8 percent), and forgery (6 percent). 72 complaints were filed against employees of the higher category. The PACC referred 39 corruption files to the Anti-Corruption Prosecution. 21 files were remitted to the Corruption Crimes Court. Of these, the Court disposed 17 cases, resulting in 12 convictions and five acquittals.<sup>10</sup>

According to the survey conducted by the Palestinian Centre for Policy and Survey Research in December 2017, 77 percent of the respondents believed that corruption existed in institutions of the Palestinian Authority (PA).

According to AMAN’s Citizens Annual Opinion Poll on the Reality of Corruption and Anti-Corruption Efforts in Palestine 2017, 55 percent of those surveyed were of the view that corruption increased during 2017. By contrast, 16 percent of the respondents considered that the level of corruption decreased. The opinion poll results indicated that 59 percent of the surveyed thought that government bodies and local government units (LGUs) were the most vulnerable to corruption.<sup>11</sup>

### 3. Counteracting illegal gains

In application of the provisions of Article 2 of the Anti-Corruption Law No. 1 of 2005, which addresses persons required to complete financial disclosure statements, in 2017, those persons who had submitted financial disclosure statements more than three years earlier were requested to provide new statements. In the reported year, the PACC received a total of 1,437 new statements. Towards the end of 2017, the Commission received 37,242 financial disclosure statements.<sup>12</sup>

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decision on extension for one more year for the PACC Chair was promulgated on 5 March 2018. The process, however, defies the purpose which should always be met by legislation, namely public interest, rather than the interest of a particular person.

9 Article 9 of the Amended Anti-Corruption Law No. 1 of 2005.

10 PACC Annual Report, 2017.

11 AMAN, Citizens Annual Opinion Poll on the Reality of Corruption and Anti-Corruption Efforts in Palestine 2017.

12 PACC Annual Report, 2017, p. 23.

Palestinian legislation does not prescribe that financial disclosure statements be submitted on a periodic basis by the President, Prime Minister, ministers, members of the Palestinian Legislative Council (PLC), judges, and prosecutors. Financial disclosure statements are submitted only once when any of these persons assumes their position. According to Article 13 of the Anti-Corruption Law, other civil servants are required to submit financial disclosure statements within two months from holding their office, one month after they leave public office, and periodically every three years.

A consolidated form, including requirements for the disclosure of financial assets, is not in place. A form prepared by the PACC is designated and used by civil servants, security personnel, PLC members, and ministers. Judges fill in another form provided by the Judicial Authority.<sup>13</sup>

## Financial disclosure statements

Article 52(5) of the UNCAC regulates financial disclosure statements: “Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.”

The Law on Illegal Gains of 2005 sets the groundwork for the submission of financial disclosure statements. The law provides a list of the persons required to submit financial disclosure statements. During the PLC deliberations of the law, in view of the differences that arose over the persons required to submit these statements, the list of public officials to be subject to this procedure was expanded. The government was also vested with the power to identify any other officials, whom it deems necessary to present financial disclosure statements. Later, the expansive list of public officials required to submit these statement was adopted and incorporated within the Amended Law on Illegal Gains of 2010, which has become the Palestinian Anti-Corruption Law No. 1 of 2005. Accordingly, a large number of public officials, who are subject to the provisions of the Anti-Corruption Law, are mandated to submit financial disclosure statements. The Law also prescribes that the PACC will keep all the financial disclosure statements and request any relevant information or clarifications.

Pursuant to the Palestinian Anti-Corruption Law No. 1 of 2005, a financial disclosure statement is a declaration, which is brought forward by the public official, stating their financial asset and the asset of their spouse and their minor descendants, in which they detail the movable and immovable properties which they possess, including the stocks, bonds, and shares in the companies and accounts at the banks, and the money and jewellery and precious stones and metals, either inside or outside Palestine, their assets and liabilities, and their sources of income and the value of such income.<sup>14</sup>

Article 2 of the Anti-Corruption Law identifies the public officials, who are subject to the provisions of the Law, namely: the PA President and his advisors; heads of institutions reporting to the President’s Office; Prime Minister, members of the Council of Ministers, and the persons alike; PLC Speaker and members; members and staff of

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13 Abu Dayyeh, Ahmed (2017). The Impact of Financial Disclosure Statements in the Palestinian Experience on Preventing and Counteracting Corruption and Impunity. AMAN, p. 16.

14 AMAN, Report on Financial Disclosure Statements: The Palestinian Experience, 2017.

the Judicial Authority and Public Prosecution; heads of PA authorities and agencies; governors; heads, members and staff of LGU councils; managers and members of the boards of directors and executive directors of public shareholding companies in which the PA or any of its institutions is a shareholder; collection officers, their representatives, trustees of deposits, banks, arbitrators, experts, receivers, creditors’ representatives, and liquidators; heads, members and staff of the boards of directors public authorities and institutions, charitable associations, civil society organisations, parties and trade unions; persons assigned to deliver a public service; any non-Palestinian person who holds public office in any PA institution; a person who performs a public function to the benefit of any public agency, establishment or civil society organisation reporting to a foreign country or international public institution; or any other person or agency whom the Council of Minister decides to be subject to the provisions of this Law.

Article 54(2) of the Palestinian Basic Law provides that “[m]embers of the Legislative Council shall present financial statements for themselves, their spouse and their minor children that detail their wealth, including real estate and movable property both inside Palestine and abroad, as well as debts. These statements shall be kept in sealed confidential envelopes at the High Court of Justice and may not be accessed unless permitted by the Court and within the limits it allows.”

With respect to the Prime Minister and ministers, Article 80(1) of the Basic Law states that financial statements should be submitted “to the President of the National Authority, who shall make the necessary arrangements to maintain their secrecy. Such information shall remain confidential and may not be accessed unless permitted by the High Court when necessary.”

Article 28(2) of the Law on the Judicial Authority No. 1 of 2002 prescribes that “[a]ll judges shall submit, upon appointment, a financial statement for themselves, their spouse and their minor children that details what they own in real estate, movable property, stocks, bonds, cash money and debts, whether inside Palestine or abroad, to the President of the High Court, who will make the necessary arrangements to maintain their secrecy. Such information shall remain confidential and will be only accessed with the permission of the High Court, when necessary.”

According to Article 71 of the Law on the Judicial Authority, the provisions above are also applicable to members of the Public Prosecution.

In pursuance of Article 16 of the Anti-Corruption Law, financial disclosure statements will be submitted to the PACC within two months after a public official is subject to the provisions of the Law. Submission is renewed periodically every three years or at request, as well as within one month after a public offices ceases to be subject to the provisions of the Law.

Article 22 of the Anti-Corruption Law provides that financial disclosure statements are deemed to be secrets, which may not be revealed except by a decision from the competent court. Articles 23, 28 and 29 prescribe penalties to be imposed in the event the spouse of the person required to submit the financial disclosure statement refrains from giving and signing the information required. Any person who fails to submit financial disclosure statements on time or presents incorrect information in these statements shall be punished with a fine that is not less than JD 100 and not more than JD 1,000.

Legal provisions on the submission of financial disclosure statements are inclusive of all relevant persons required to do so. The Anti-Corruption Law provides an expansive list of persons required to submit these statements. Without restriction, the Law makes reference to public officials as well as staff members of civil society actors.

A total of 37,242 financial disclosure statements were submitted to the PACC, reflecting a compliance rate of 86.3 percent.

Table: Number and distribution of financial disclosure statements according to target groups – Early 2012 towards 31 December 2017.

#	Sector	Distributed statements	Received statements	Compliance (%)
1	Line ministries and government bodies (civil servants)	22388	22089	98.6
2	PACC	60	60	100
3	Military personnel (security agencies)	8929	8606	96.3
4	LGU members	3723	2463	66
6	Societies	2475	760	30.7
7	Shareholding companies, in which the PA is a shareholder	223	176	78.9
8	Trade unions and syndicates	80	20	25
9	Government funds	250	207	82.8
10	Banking institutions	58	37	63.7
11	Liquidators	20	3	15
12	Total	45.195	37.242	86.3

Source: PAA Annual Report 2017

Reflecting the Palestinian approach to dealing with financial disclosure statements, the above review shows that several regional and international standards are implemented. Of all distributed forms, the majority of financial disclosure statements were completed and submitted to the PACC, representing a compliance rate of 91 percent. In addition, the PACC plays its legally prescribed role in developing, distributing, collecting and keeping the financial disclosure forms received from relevant public officials.

However, many obstacles and challenges indicate that the financial disclosure system is ineffective as to accomplish the desired goals, particularly in preventing corruption and impunity. In principle, the financial disclosure system is designed to counteract illicit enrichment, which demonstrates strong presumption of cases of corruption after they are revealed (such presumption was invoked in six cases only towards mid 2017).

In its current form, the financial disclosure system does not ensure public deterrence, nor does it allow interventions to prevent corruption. Many examples show that undue gains result from the exploitation of public office. The current system does not help to hold suspects to account, allowing impunity. When similar cases of are detected, suspects would have already fled from the country. This has been clearly demonstrated in many cases heard by the Corruption Crimes Court.

Additionally, financial disclosure statements are kept by the President's Office and Chair of the High Judicial Council (HJC). These pertain to employees of higher categories, who are most vulnerable to corruption or exploitation of public office. Albeit significant, these statements are not in any way audited, reviewed or renewed. As a result, the said statements are of limited usefulness to preventing corruption and exploitation of public office for the purposes of illegal gains and illicit enrichment.

In the Palestinian context, as mentioned above, many reasons render the financial disclosure system ineffective in the fight against corruption. Of particular note, there remains the extensive number of persons required to submit financial disclosure statements. Because these are not limited to employees of the higher categories and those engaged with public financial management, hundreds of thousands of persons are supposed to present such statements. Without distinction, the notion of confidentiality governs the processing of financial disclosure statements, which are sealed off and not made publically available. No one is allowed to view the content of these statements, except by a decision from the competent court (High Court). This is another key reason for inefficiency of the financial disclosure system.

Contrary to its assigned tasks, the PACC adopts a strict interpretation of Article 22 of the Anti-Corruption Law, which provides for confidentiality of financial disclosure statements. The Commission applies an expansive approach to confidentiality, even to staff of the PACC and the agencies authorised of managing and processing financial disclosure statements. Despite the critical importance of this issue, confidentiality is one reason the PACC has not implemented its legally prescribed tasks, namely, to examine and audit the information relating to these statements.

The Palestinian law does not prescribe penalties on noncompliance with the timely submission of financial disclosure statements, failure to submit these statements, or presentation of false data. This is the case of those statements made by the President, Prime Minister, ministers, PLC members, judges, and prosecutors. It is noted that submission of financial disclosure statements is a prerequisite to the appointment of judges and prosecutors. On the other hand, Article 28 of the Anti-Corruption Law imposes penalties on other persons, namely, a fine that is not less than JD 100 and not more than JD 1,000 or its equivalent in the currency in circulation for each month delay from the date the person is subject to the provisions of the Law. The same penalty is prescribed against those who present false data in their statements. However, although the law has been in force for eight years now, these penalties have not been applied to offenders to date.<sup>15</sup>

Financial disclosure statements are not examined nor audited. They are kept secretly from relevant bodies and the public, with the exception of extraordinary cases and with prior permission from the competent court. Hence, the financial disclosure mechanism in Palestine can be characterised as ineffective and does not play a pivotal role in the fight against corruption

#### 4. Awareness raising

- Sensitisation, training, participation of society and media

The PACC has played a favourable role in introducing official and nonofficial Palestinian institutions to the goals of the Anti-Corruption National Strategy, Anti-Corruption Law, and mechanisms for reporting suspicions of corruption. The Commission has targeted some civil society organisations, students and instructors at universities, colleges and schools, and media representatives. The PACC has also engaged staff members of a number of government bodies, including the General Personnel Council (GPC), Ministry of Education, Ministry of Waqf and Religious Affairs, Ministry of Labour, Ministry of Health, and Palestinian Road Accident Victims Compensation Fund.<sup>16</sup> The PACC has also concluded memorandums of understanding (MoUs) and cooperation agreements to implement some activities of the National Anti-Corruption Strategy. In addition to 19 agreements with 47 institutions in 2017, the PACC signed 12 MoUs with universities to offer courses on the fight against corruption.

<sup>15</sup> Ibid.

<sup>16</sup> PACC Annual Report 2017, p.2948-.

- Promotion of, and training on, codes of conduct

The PACC and GPC have taken the initiative to launch a campaign to promote and provide training on codes of conduct and ethical standards in civil service. In this context, to raise awareness of these codes, the PACC incorporated the Code of Conduct and Ethics for Civil Service within all joint plans signed by the PACC with several parties.

It should be noted that the PACC scope of work covers the West Bank only. The Commission is almost inoperative in the Gaza Strip. However, albeit limited, the Commission receives complaints from Gaza. The PACC faces difficulties in handling these complaints, requesting relevant documents, or auditing corruption files. This is due to the internal Palestinian political divide and operation of two separate authorities in each area

### **PACC independence and effective functions**

Article 3 of the 2005 Anti-Corruption Law provides that the PACC enjoys a juridical personality as well as administrative and financial independence. Article 7 of the Law prescribes that the Chair and employees of the Commission enjoy immunity regarding all the functions they perform relating to the execution of their tasks. However, the Law does not stipulate that the PLC approve appointment of the PACC Chair. Although the PACC possesses adequate independence to recruit human resources, the Commission is understaffed. The PACC declares that it has an autonomous decision making process, but decisions are subject to internal control by the PACC Chair. Like other government bodies, the PACC decisions are also subject to external control by the SAACB. Due to inaction of the PLC, the Commission submits its annual report to the Committee of Parliamentary Blocs.

There are some indications of external interventions in the PACC functions.<sup>17</sup> In this context, AMAN's Citizens Annual Opinion Poll on the Reality of Corruption and Anti-Corruption Efforts in Palestine 2017 shows that almost 69.2 percent of the surveyed individuals believed that the PACC was not independent in the performance of its functions. By contrast, 24 percent of the respondents said that the PACC played its role independently. The poll results showed that 42 percent of those surveyed who did not believe the PACC was independent were of the view that Office of the President was the party that interfered the most in the operations of the Commission, followed by the security agencies in the view of 20 percent of the polled, while 14 percent thought that it was the Prime Minister's Office and ministers that interfered the most in the Commission's functions, and party leaders with 10 percent, Governors and Mayors 9 percent, while 7 percent pointed to PLC members.<sup>18</sup>

The PACC keeps all the financial disclosure statements and requests any relevant information or clarifications. The Commission also examines financial assets of the persons subject to the provisions of the Anti-Corruption Law. In this vein, the PACC functions are in consistence with the UNCAC. Independence ensures that the Commission plays its assigned role effectively. Independence immunises the PACC Chair against dismissal, except in the cases specified by the Law. Thanks to the broad powers vested by the Law, the PACC enjoys needed strength and capability to fight corruption effectively and efficiently. In this context, the PACC can communicate with some Arab countries to recover assets, including land, funds and shares, from persons who dispose of these properties in a

<sup>17</sup> AMAN, Report on Integrity and Combating Corruption 2016, Ramallah, 2018, p. 37.

<sup>18</sup> AMAN, Citizens Annual Opinion Poll on the Reality of Corruption and Anti-Corruption Efforts in Palestine 2017.

manner that violates the law. The Commission can also cooperate with relevant Palestinian authorities.<sup>19</sup>

According to the Basic Law and other laws in force in Palestine, in addition to the PACC, some authorities and institutions have been established to promote integrity and prevention of corruption. Vested with particular oversight powers, these include the SAACB, internal control committees, internal audit and inspection departments, Directorate General of Complaints, and Accountant General.

## SAACB

Article 96 of the Palestinian Amended Basic Law of 2003 provides for establishing the SAACB. Having been promulgated, Article 23 of the Law on the State Audit and Administrative Control Bureau No. 15 of 2004 provides that “[t]he Bureau shall seek to ensure smooth operation and financial and administrative stability within the National Authority, including its executive, legislative and judicial authorities; reveal all facets of financial and administrative deviation, including cases exploiting the public service; and ensure that public performance is consistent with the provisions of laws, regulations, bylaws, decisions and directives in force, [falls] within their limits and that it is exercised in the best manner and at the least possible cost.”

The Law grants a certain degree of independence to the SAACB and provides that it will have a special budget line item within the PA general budget.

In relation to the administrative and financial independence of the SAACB, relevant legal provisions are relatively consistent with Article 6(2) of the UNCAC.

Article 4 of the SAACB Law entitles the Chair of the Bureau to appoint a sufficient number of employees to help the Bureau perform its tasks. Article 23(3) of the Law also provides that the SAACB will develop special programmes and courses for the qualification and training of the Bureau employees. In addition to general powers for financial and administrative control over all relevant institutions, the Bureau is vested with certain full powers, including:

- Audit accounts and documents, and request information which it deems necessary.
- Review all reports, documents and information.
- Have the right of access, seizure, and summons.
- Vest the SAACB staff with judicial duties during the exercise of their functions.<sup>20</sup>

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19 AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015

20 Ibid.

## Internal control units and financial auditing and inspection departments

In 2010, the Council of Ministers promulgated the Financial Regulation of Ministries and Public Institutions.<sup>21</sup> The Council of Ministers also enacted Decision No. 130 of 2006 on the Establishment of Internal Control Units at Ministries. Internal controllers shall perform the following tasks:

1. Control department expenditures, including those financed by the general budget or by grants.
2. Ensure the validity of monthly expenditure revenue reports before they are submitted to relevant bodies at the Ministry.
3. Ensure validity of monthly expenditure reports before they are submitted to relevant bodies at the Ministry.
4. Control bank reconciliations of revenue, expenditure and grant accounts.
5. Take part in evaluating in-kind grants and assistance for the purposes of custody.
6. Verify accurate and sound petty cash books.
7. Abrupt inspection of funds, petty cash, and fixed assets at the departments.
8. Take part in inventory and disposal committees.
9. Coordinate with financial departments at responsibility centres to follow up on comments of the State Audit and Administrative Control Bureau and provide answers to its inquiries.
10. Offer advice and consultancy to responsibility centres if they are thus requested.

The Regulation also addresses the appointment of inspection committees. The Minister shall appoint during January of each year committees for inspections and inventory to carry out functions which he identifies, including inspection and taking stock of funds, warehouses, stamps and papers of financial value. Committees shall submit its reports to the Minister as well as a copy thereof to the competent Minister not later than ten days from the date of assignment for analysis, evaluation and addressing of any deviation.<sup>22</sup>

In 2018, the Council of Ministers deliberated a final draft of the Financial Regulation of Ministries and Public Institutions, which had been prepared in 2014. Article 134 of the Draft Regulation provides: “A specialised department shall be established at the public institution. It shall report to the relevant minister and implement its tasks in accordance with the Regulation on Internal Financial Audit, which the Ministry puts forward to develop the general structure and overall framework of internal control system in the public sector, which ensures the appropriate and economical use of public resources and safeguards compliance of all public institutions and their units to expenditure in line with applicable financial legislation.”<sup>23</sup>

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21 It is worth noting that this Regulations has not been published in the Official Gazette to date. It is applies on the basis of instructions issued by the Minister of Finance.

22 AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015.

23 Draft Financial Regulation of Ministries and Public Institutions, Unpublished.

## Directorate General of Complaints

In accordance with the Regulation on Complaints No. 8 of 2016, the Directorate General of Complaints at the General Secretariat of the Council of Ministers has worked towards finalising and developing a consolidated complaints system at public institutions and security agencies. Some positive developments were marked in the Fourth Annual Report on Complaints at Government Institutions 2016, which was approved by the Council of Ministers in September 2017.<sup>24</sup> For example, the majority of public institutions and security agencies have finalised operation of the complaints system, created internal complaints units, and appointed trainer staff to manage these units. Most websites of government bodies have also included links to the Computerised Central Government Complaints System of the General Secretariat of the Council of Ministers.

The Fourth Annual Report on Complaints at Government Institutions 2016 provides a detailed review of challenges and obstacles to every civilian institution and security agency as a step forward to develop an effective accountability system.<sup>25</sup> However, requirements for activating complaint systems still need additional efforts, especially in the security agencies. These were covered by a wide range of recommendations in the Fourth Annual Report on Complaints.<sup>26</sup>

The Public Prosecution and Judiciary have assigned the task of receiving complaints to the Judicial Inspection Department, particularly in relation to examining functions, conduct and behaviour of prosecutors. This is in addition to monitoring the validity of application and completion of investigations and referral procedures among other issues. In 2017, 24 complains were referred to the Department, 16 of which were handled, while eight complaints are still under follow-up. A specially designated and programmed Complaints Unit was established in the Office of the Attorney General. The HJC Judicial Inspection Department received 139 complaints until December 2017, where it addressed 122 of them in addition to the 40 complaints that were pending from previous years.<sup>27</sup>

## Accountant General

The PA Ministry of Finance (MoF) created the position of the Accountant General in accordance with the Law by Decree by Decree No. 3 of 2008 Amending the Law on the Organisation of the Public Budget No. 7 of 1998. Article 3 of the Law by Decree vests the Accountant General with particular powers. The Accountant General shall be the responsible party within the MoF for the following:

- Financial planning and projection of cash flows.
- Cash management and organising banking arrangements for the National Authority.
- Managing, organising, monitoring and controlling various financial resources.
- Managing banking accounts of the National Authority.
- Managing financial assets of the National Authority, including both financial and fixed assets.

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<sup>24</sup> AMAN, Tenth Annual Report on Integrity and Combating Corruption Palestine 2017.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

- Managing public debts.
- Managing grants and loans.
- Executing the General Budget of the National Authority.
- Accounting and publishing reports.

In addition to the Financial Regulation of Ministries and Public Institutions, Article 139 of the 2010 PA Financial Regulation provides that the “Accountant General shall appoint financial controllers at each department. These shall be assigned with the responsibility for controlling enforcement of the provisions of this Regulation as well as of relevant laws and regulations.”

## Public sector

In relation to employment, promotion and retirement, each State Party shall, in accordance with the principles of efficiency, transparency and objective criteria, develop clear rules for promotion in line with principles of integrity, transparency and experience. It shall also promote equitable pay scales, education and training programmes, and adequate procedures for the selection and training of individuals for public positions. (Article 7(1) of the UNCAC)

The regulatory framework of the PA civil service and public employment is laid out by the Law of Civil Service No. 4 of 1998, Law Amending the Law of Civil Service No. 4 of 2005, and the bylaws and regulations issued forth in accordance with it. These include the Bylaw of the Law of Civil Service No. 45 of 2005 and Decision of the Council of Ministers and Amended Bylaw No. 14 of 2008. Several other bylaws regulate increments, promotions, appointments, and matters of relevance to public employment.

The Law of Civil Service provides the mechanisms and procedures of appointment through advertisement in local newspapers as well as written and oral exams. It also delineates the mechanisms of promotions, career progression, delegation, transference, secondment, powers, disciplinary penalties, salaries, incentives, leaves, etc.<sup>28</sup>

## Appointment mechanisms

The Law of Civil Service No. 4 of 1998 as amended and relevant regulations govern the mechanisms and procedures of the appointment of government staff. Article 14 of the Law provides that “[n]o person shall be appointed to a Civil Service function unless he meets the requirements for occupation of the position. Two functions may not be combined.” Of relevance to this report is the mechanism of appointment and application for vacant positions. According to the Law:

1. Government departments shall advertise their vacant posts to which appointment is as decided by the authority concerned in at least two daily newspapers within two weeks of the post falling vacant. The advertisement is to include the particulars relevant to the position and the conditions to be met for its occupation, and the Bureau is to be kept duly informed.

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28 AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015.

2. In posts, which call for competitive written and oral examinations, the advertisement is firstly to be for the written examination. Only those successful in the written competition shall be called in for the oral examination. The names of those successful in the oral examination shall be announced according to the final order of the results of the examinations.
3. Selection committees shall advertise the names of those persons accepted to take competitive examinations for appointments in at least two daily newspapers on successive days, and the advertisement is to state the time and place of the examination.
4. Appointments to functions shall be in accordance with order of precedence in the final order of the results of the examination, and on a tied result the appointment shall go to the highest qualified followed by the most experienced. If there is still a tie, the older candidate shall take precedence. The rights of any person not chosen in the appointment cycle shall lapse one year from the date on which the result of the examination was announced.
5. The appointment shall be processed within one month from the date of announcement of the aforesaid results.
6. The process of appointment to advertised vacant posts must be finalised by a latest date of one year from the date of announcement of the result of the examination.<sup>29</sup>

Article 26 of the Law also provides how selection committees are established: Selection committees for appointments to vacant posts in government departments consist of representatives of the department concerned and GPC, provided that the Bylaw provides relevant details.

## Promotion mechanisms

Among others, Article 43 of the Law of Civil Service regulates the promotion of civil servants. Accordingly, promotion shall only be made to a vacant grade in the approved budget, provided that the functionary has spent the minimum number of years of the period prescribed for remaining in that grade. For promotion to grades within category 1, a civil servant must receive a ‘very good’ assessment throughout his years of service in the grade. For promotion to grades within other categories, a civil servant must receive an average assessment of ‘good or higher’ for the last three years. Promotion within categories 2 and 3 shall be available to civil servants who meet the conditions for promotion within the relevant government department as decided by the relevant head of department. Priority in promotions shall be accorded to seniority. The Law also provides a table of the minimum number of years to remain in civil service.<sup>30</sup> In addition, the Law includes so many detailed provisions on promotions, that it would serve no useful purpose to cite them all here.<sup>31</sup> Article 57 et. seq. of the Law of Civil Service also regulate the procedures for transference, delegation, and secondment.<sup>32</sup>

29 Articles 1922- of the Law of Civil Service No. 4 of 1998 as Amended. These procedures address mechanisms of appointment in vacant posts.

30 AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015.

31 Ibid.

32 Ibid.

## Disciplinary penalties

A number of provisions of the Law of Civil Service regulate disciplinary penalties. Of these, Article 68 provides that “[i]f it is proven that a civil servant has contravened the laws, regulations, instructions and resolutions in force in the civil service or in applying the same”, a disciplinary penalty of those prescribed by the Law shall be imposed on them.

## Retirement

In conjunction with the Law of Civil Service, the Law on Public Retirement No. 7 of 2005, Law Decree No. 5 of 2007 Amending the Law on Public Retirement, Law by Decree Amending the Law on Public Retirement No. 1 of 2008, and relevant bylaws and regulations address civil servants’ benefits after retirement, subscription mechanisms, contributions, and deductions.<sup>33</sup>

In mid 2017, the Law by Decree No. 17 of 2017 on the Early Retirement of Civil Servants was promulgated, allowing the Council of Ministers to retire a civil servant on pension (i.e. before the officially established retirement age has been reached) based on a recommendation from their government department. Months earlier, the Law by Decree No. 9 of 2017 on the Early Retirement of Palestinian Security Personnel had been enacted.

In early 2018, a number of civil servants were pensioned off without their consent or applications for early retirement. According to the affidavits they submitted to AMAN, civil servants reported they had been pensioned off arbitrarily and on grounds their union activity, complaints of corruption against their immediate managers, or for personal disputes with their superior directors. Over past years, performance appraisals of these employees were good or higher. Given that early retirement runs counter to public interest, AMAN calls for establishing an independent committee to examine the grievances of civil servants forcibly retired on pension.

On 23 January 2018, the Supreme Constitutional Court rendered a declaratory judgement on the “permissibility of combining the monthly salary paid to a minister from the Public Budget with the pension the minister, those in the grade of a minister and Director of the State Audit and Administrative Control Bureau is entitled to from the Palestinian Pension Agency for earlier periods of service in public employment”. The Court concluded that the “Director of the State Audit and Administrative Control Bureau may not combine his monthly salary, which he earned in his capacity as a public employee with his salary which he obtains in his capacity as an employee in the grade of a minister in a government department reporting to the State. This shall apply to all personnel of the State in all cases ...”<sup>34</sup>

In early 2018, the Council of Ministers issued forth the Decision on the Suspension of Contracting Civil Servants who are Retired on Pension. However, in 2018, several cases have been monitored, involving retired persons who are contracted as experts.

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<sup>33</sup> Article 27 of the Law on Public Retirement No. 7 of 2005 as Amended.

<sup>34</sup> AMAN, A Paper on the Supreme Constitutional Court Decision on Case No. 01 of Judicial Year 02, 21 February 2017.

**2017 saw developments in the organisation of the civil service sector, in relation to appointments, promotions, administrative structures, and tenures. These mainly include:**

- The GPC approved the National Strategic Plan for Civil Service 2017-2022, focusing on the elimination of overlapping powers, putting an end unclear responsibilities, and improvement the relation with the public. The Plan also highlights “weak channels of communication between the government and citizens.”<sup>1</sup> Control of various employment conditions, including appointment, promotion, transference, delegation and secondments, through a set employment structure in line with proper administrative criteria and principles contributes to streamlining organisational structures by reducing disguised unemployment. It also addresses the issue of surplus staff, leads to rationalisation of the wage bill, limits waste of public funds, and eliminates opportunities for exceptions in employment.<sup>2</sup>
- The President approved the 2018 Law by Decree Employment Structure, which the GPC had developed in April 2018. The employment planning process covered 77 government departments listed on the employment structure this year. The Law by Decree will regulate human resources management, including in terms of selection, appointment, promotion, supervisory positions, and separation.
- In 2017, the GPC continued to regulate recruitments for public employment and vacant positions in 83 government facilities (ministerial and non-ministerial government bodies). Towards 2016, there was a total of 90,862 civil servants in these government facilities.<sup>3</sup> The majority of positions are filled in line with the employment structure, approved by the Council of Ministers. The GPC also continued to prepare “job description cards”, producing approximately 400 cards in 2017. Another 5,400 cards of supervisory positions were also finalised and approved by the Council of Ministers. Developments were also introduced to the forward-planning exercise with a view to listing government department needs on the employment structure prior to announcing and filling vacancies, along with the specific job description.<sup>4</sup> It is worth noting that this improvement is limited to “regular” jobs, as opposed to higher-level positions.
- The GPC defined 30 sensitive positions in the civil service that constantly require job rotation. The GPC is currently working on defining technical criteria and timelines for implementing these rotations. This action, if implemented professionally and with commitment will serve to prevent exploitation of public office for personal goals and interest<sup>12</sup>. Moreover, the GPC launched its electronic examination system aiming at subjecting the recruitment process for senior positions to the same procedures. In addition, the National School of Management has also been launched.
- On 18 April 2017, the Palestinian President issued a Presidential Decree No. 39 of 2017 on the establishment of the National Team for Administrative Development in compliance with the NPA 2017-2022. The team consisted of the Prime Minister (Head), with membership of the Minister of Finance and Planning, Minister of Justice, Minister of Local Government, Minister of Higher Education, Minister of Health, and Chair of the GPC. The first meeting for the team was held on August 10, 2017. However, no relevant decisions were published as of the end of 2017.

In spite of these developments towards promoting integrity, accountability and transparency in public employment in 2017, there were observations, including:

- Most appointments at higher posts continued without transparency or fair competition, in disregard for the principle of equal opportunity. No job announcements were published in the newspapers, nor were there any competitions over appointments. Furthermore, job descriptions were not completed and appointments were conducted without monitoring from an official party. Also, weakness in the integrity and transparency of regular appointments in some ministries continued.

The GPC did not supervise appointments, promoting the practice of favouritism and heightening conflicts in the race to access these positions due to the financial privileges they entail. This especially true for positions like a minister or the head of a non-ministerial institution or a brigadier general in the security services.

- The HJC Chair appointed a president and deputy president of the High Court of Justice without absolute commitment to the provisions of the Law on the Judicial Authority. Eight under-secretaries for ministries and other non-ministerial government bodies were appointed with varying ranks in the Ministry of National Economy (MoNE), MoF and Planning, Ministry of Tourism and Antiquities, Ministry of Labour, Ministry of Education, SAACB; Palestinian Agricultural Disaster Risk Reduction Insurance Fund, and Colonisation and Resistance Commission, in addition to 21 deputy assistants in various institutions. They were appointed without competitions or advertisements. Appointments were based on a nomination by relevant officials in relevant ministries or government bodies. In 2017, the grade of minister was granted four times to the Chair of the Palestinian Land Authority, General Supervisor for the Television and Radio Commission, Chair of the Board for WAFA News Agency, Advisor to the Head of State of Foreign and International Affairs and Advisor to the Prime Minister for Arab and Islamic Funds. All these were appointed without a legal reference or criteria for awarding these positions, which entail financial obligations and privileges in terms of salary and pension. The President's Office also witnessed several appointments and promotions. Seven promotions were granted to employees and or general directors. Also, an eighth promotion was granted to a deputy assistant, and a ninth to an under-secretary, all without an announcement or competition. In the diplomatic corps, without competition, six decisions were made to appoint persons in the grade of ambassadors.
- The continued absence of policy and criteria that determine job scales, salaries and bonuses for heads of non-ministerial public institutions led to the widening of the salary gap; the salaries and bonuses of some of these heads of institutions have reached even higher than what the PA President receives.
- The problem of employees who are exempt from duties in order to work with Palestinian factions, national public figures or organizations or non-governmental associations who still receive salaries from the finance ministry, continued.
- Within the context of weakness in integrity and transparency in public appointments, some employees were given special contracts with privileges and high salaries in violation of the contract law and which were incompatible with the salary scale in Palestine.
- Security clearance requirement as a condition for holding public office has persisted, representing a form of political corruption.
- Although the GPC had exerted effort to solve the problem of appointing high officials through the adoption of job descriptions, its efforts continue to clash with centres of influence, namely: Office of the President, the government, the security apparatuses, and some of those close and are affiliated with decision makers. Moreover, the aforementioned centres refuse the idea of having an oversight party to these appointments as well as a system that defines conditions and procedures for appointments of these positions.

- In its 2017 annual report, the SAACB disclosed that there were violations of the provisions of the Diplomatic Corps Law and its Bylaw. The report revealed noncompliance with the President’s Decision and that of the Council of Ministers regarding contracting experts and employees, which is a violation of the law. Additional violations included the extension of work contracts of ambassadors after the age of sixty without obligation to work in the ministry.
- The SAACB annual report also confirmed the existence of violations of the law in some appointments of the Ministry of Health and Ministry of Education and Higher Education in addition to weakness in transparency and integrity of some appointments and contracts of the Palestinian Energy Authority, some LGUs, and some civil society organisations.
- Despite the fact that salaries of employees who are recruited on special contracts (i.e. on temporary bases, emergency, or seasonal) are subject to the Council of Ministers’ Decision No. 335 of 2005, these salaries range from 3000- 4000 dollars<sup>41</sup>. This means that some of these wages sometimes are equal to a minister’s salary. In addition, there are contracts that their value exceeds the salary of the Prime Minister. This, of course, is not consistent with the state of Palestine and its modest financial resources.
- In 2017, AMAN received information that confirms the appointment of some officials through temporary contracts to carry on responsibly of the permanent positions they were in the first place. This is in violation of the special Council of Ministers Decision No. (HR/CoM/06/27/16) issued in 2014, on suspending contracts with retired civil servants.

Each State Party shall consider adopting appropriate legislative and administrative measures to prescribe criteria concerning candidature for and election to public office. (Article 7(2) of the UNCAC)

In reference of national legislation, including relevant provisions of the Palestinian Amended Basic Law of 2003, the framework for candidature for and election to public office safeguard the right to hold public office on equal footing. Under Title Two: Public Rights and Liberties, Article 26 of the Basic Law provides that “Palestinians shall have the right to participate in political life, both individually and in groups. They shall have the following rights in particular [...] (4) To hold public office and positions, in accordance with the principle of equal opportunities.”

This article clearly demonstrates that equality and equal opportunities should be availed to all Palestinians in holding public office and positions. Any violation of this article infringes on the Basic Law as well as the principles of equality and equal opportunities. It is understood from the explicit provision of Article 26 that holding senior positions must be grounded in and reflect application of the rules of equality and equitability. In addition to challenge mechanisms and grievance committees, objective, professional and transparent rules should be in place to regulate holding public office on a merit basis. Practice is inconsistent with the theoretical framework provided by the Basic Law. Appointments in senior positions do not comply with the law. These are filled on the basis of exceptions or by the children and relatives of some public officials.

In practice, it is observed that, in appointments to senior/special positions, legal provisions on nomination and selection mechanisms are not respected. This gives decision makers much discretionary power in appointments, allowing room for holding these positions irrespective of objective and professional rules that are based on equality and equal opportunities, providing a conducive entry point for widespread corruption, favouritism, nepotism, and use of the said positions to maintain personal loyalties.

In addition to the Basic Law, the Elections Law No. 1 of 2007 regulates holding the position of the President of the State and PLC membership.

Law No. 10 of 2005, Amending Law No. 12 of 2005, and Law by Decree No. 8 of 2012 set the legal framework for the election of LGU councils.

In relation to candidature for and election to public office, the following has been observed:

- In appointments to senior/special positions, legal provisions on nomination and selection mechanisms are not honoured. This gives decision makers much discretionary power in appointments, allowing room for holding these positions irrespective of objective and professional rules that are based on equality and equal opportunities, providing a conducive entry point for widespread corruption, favouritism, nepotism, and use of the said positions to maintain personal loyalties.
- Presidential and legislative elections have not been held since 2005 and 2006 respectively. The PLC term expired on 25 January 2010. The internal political divide between the West Bank and Gaza Strip and current political conflict have disrupted presidential and legislative elections.
- While local elections were held in the majority of LGUs in the West Bank, Hamas disrupted these elections in the Gaza Strip. Local elections took place on 13 May 2017 in 391 LGUs. In 145 of them, more than one electoral list was nominated, while in 181 units only one list was nominated hence winning by acclamation, and in 65 units, no list was nominated. In addition, the number of candidates was less than the number of seats in six LGUs.<sup>35</sup> Supplementary local elections were held in the West Bank on 29 July 2017, and included 70 LGUs (Of these, no lists were nominated in 38 LGUs; council members of four units resigned after the elections that were held on 13 May. 2017; voters did not participate in the elections one unit). Civil society organisations exerted continuous efforts and carried out many activities to pressure the government to hold elections. In addition, attempts were made to persuade Hamas to participate and allow local elections to be held in Gaza. However, civil society efforts in Gaza were met by Hamas's refusal to participate as well as prevent citizens from participating.

Each State Party shall consider taking appropriate legislative and administrative measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties. (Article 7(3) of the UNCAC)

Article 68 of the General Elections Law No. 1 of 2007 addresses funding sources electoral campaigns, prohibiting the receipt of any funds for electoral campaign from any foreign or external non-Palestinian source whether directly or indirectly. Each electoral list or candidate who participates in elections should submit a detailed statement of all funding sources and the amounts spent during the electoral campaign. The Central Election Commission (CEC) is entitled to request the auditing of the financial statements stated above by a certified auditor.

Article 69 of the Law also sets the spending limit allowed for candidates to the presidency or electoral lists to US\$ one million.<sup>36</sup>

Article 32 of the Local Council Elections Law No. 10 of 2005 places a restriction, requiring that each list which participated in the elections submit within one month from the date of announcing final results a detailed financial

35 Central Elections Committee, Palestine. Local Election Report, September 2017, p. 33.

36 Article 69 of the General Elections Law No. 1 of 2007.

statement stating the costs of the election campaign, funding sources of the campaign, and ways of spending the funds. The CEC may request that the financial statements be audited by a certified public auditor.

AMAN published a focused report on integrity in funding and spending on electoral campaigns. Accordingly, an integrated institutional system that controls and supervises electoral campaigns is lacking. The CEC plays a limited oversight role on campaign funding. The CEC role is limited to receiving financial reports from candidates and electoral lists, but can also request that these reports be audited by certified auditors. Additionally, the Elections Law does not assign a role to the CEC to detect and investigate violations associated with funding and spending on electoral campaigns.

From a legislative perspective, reforming electoral campaign funding and expenditure requires a comprehensive review of current legal provisions and produce a separate law on electoral campaign funding, which is consistent with relevant international standards. Direct public funding will be approved as a funding source in conformity with the PA capacities. In practice, an honour charter on electoral campaign funding will be approved. The CEC will publish reports it receives from candidates on the CEC website and make information on sources of donations and expenditures available to voters.

The legal framework for funding political parties in Palestine is impaired by a legislative vacuum. In addition to the specific nature of their activity, funding of political parties are secret since Palestine is under occupation.

## Conflict of interests

Each State Party shall endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest by providing for mechanisms for disclosure, registering cases of conflict of interests, and prescribing appropriate penalties for violations of this principle. (Article 7(4) of the UNCAC).

In an unsystematic fashion, Palestinian laws address conflict of interests. Article 80 of the Basic Law makes reference to conflict interests by the Prime Minister and ministers. However, regulations or directives have not been set forth to delineate and help apply this provision.

The Basic Law regulates conflict of interests in regard of members of the legislature. Article 54(1) of the Law provides that “[a] member of the Legislative Council may not exploit Council membership in any type of private business or in any manner whatsoever.” Also, the Law on the Rights and Duties of Members of the Legislative Council No. 10 of 2004 provides that a PLC member may not purchase or hire any of the State properties, rent or sell any of his or her properties to the State, or trade or conclude a contract with it, in his or her capacity as a contractor, supplier, or subcontractor.<sup>37</sup>

The Palestinian Law of Civil Service No. 4 of 1998 as Amended is also mindful of this aspect. It makes reference to and stresses the need conflict of interests into account. To this effect, Article 67 prohibits that a civil servant combine two positions, exploit their position for a personal interest or gain, or accept any gift, remuneration, grant or commission for performing their work. However, the Law does not provide for establishing a department or institution to take over the responsibility for registering or reporting cases of conflict of interests, or gifts and remunerations. It is supposed that personnel affairs departments at ministries, which the Law of Civil Service provides for establishing, carry out this role in coordination with the GPC.<sup>38</sup>

37 Article 4 of the Law on the Rights and Duties of Members of the Legislative Council No. 10 of 2004.

.AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015

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The SAACB Law No. 15 of 2004 explicitly provides for avoiding conflict of interests by the SAACB Chair, Deputy Chair, and Director General. Relevant provisions prohibit any of these from assuming any other position.

The Water Law by Decree No. 14 of 2014 includes several provisions on conflict of interests. Article 11 prohibits that an employee of the Palestinian Water Authority be a party to any contract, including procurement of supplies or work bids which is concluded by the Authority. An employee of the Authority shall not be employed in any of the projects or works implemented by the Authority and shall not receive any direct or indirect payment or material benefit from such projects and works. Article 22 and 28 of the Law by Decree also prohibit that the Chairperson and members of the Board of Directors, and their relatives up to a second degree, or the Chief Executive or any of the employees of the Council, be a party to any contracts, which are concluded by the Council. work in such projects or works or earn any direct or indirect profit or benefit, excluding salaries and bonuses received from employment in the Council or in consideration for responsibilities entrusted to them under the provisions of this law and regulations issued pursuant thereto.<sup>39</sup>

Other regulations also address conflict of interests, including the Monetary Authority Law, Investment Promotion Law, Capital Market Authority Law, Law on Charitable Associations, Public Procurement Law, and Law on the Auditing Profession. On the other hand, the Law on Local Councils No. 1 of 1997 does not address this issue at all.

There are no legal provisions that regulate movement of senior public officials into the private sector, including ministers, PLC members, or tax and customs officers. Regulations are not in place to set a time limit for such transition or establish a body to provide needed supervision and monitoring.<sup>40</sup>

In this regard, AMAN is of the view that fulltime employment in public office and positions<sup>41</sup> is a key guarantee for good performance by civil servants and public officials. It ensures that public interest is not affected by any personal interests of public employees. On the other hand, pervasive part-time work gives rise to potential conflict of interest. Against this background, pieces of legislation of various degrees, first and foremost the Basic Law, include provisions that stress the need for fulltime employment by some holders of elective public office to prevent cases of conflict of interests, which give rise to suspicions of corruption. However, lacking or unclear relevant legal provisions have resulted in several challenges. Some regulations on oversight bodies and agencies do not include explicit provisions on fulltime employment. For example, the Anti-Corruption Law No. 1 of 2010 does not prescribe that the PACC Chair work on a fulltime basis. Generally recognised principles and rules for prevention of conflict of interests necessarily require that the PACC Chair assume any tasks or positions at any institution, which is controlled by the PACC. In this context, other problems also arise from membership of some public officials or civil servants, as state representatives, on the boards of non-ministerial government bodies, government corporations, or companies in which the government is a shareholder. In some cases, these officials

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<sup>39</sup> Ibid.

<sup>40</sup> SDGs Report, 2018

<sup>41</sup> These positions can be identified as follows:

PA President, his advisors, and heads of institutions reporting to the President's Office;

Prime Minister and members of the Council of Ministers;

PLC Speaker and members;

Heads of state institutions and non-ministerial government bodies;

Members and staff of the Judicial Authority and Public Prosecution;

Heads of PA security agencies and apparatuses;

Governors, and heads, members and staff of LGU councils;

Ambassadors, consuls, and senior diplomats; and

Employees of the special category, who are appointed in the grade of minister.

and servants receive large honourees despite the fact that representation is carried out during official working hours. In addition to duplicate financial entitlements, this situation results in conflicts between public officials to obtain such representative status and enjoy granted privileges.<sup>42</sup>

## Codes of conduct for public officials

Each State Party shall take note of the relevant initiatives of regional, interregional and multilateral organisations, such as the International Code of Conduct for Public Officials. Each State Party shall also take disciplinary or other measures against public officials who violate these codes. (Article 8(1), (2) and (3) of the UNCAC).

## Codes of conduct in Palestine

Codes of conduct for public officials: In October 2012, the Council of Ministers issued forth the Code of Conduct and Ethics for the Palestinian Civil Service.<sup>43</sup> This aims at establishing the values of civil service, ultimately enhancing trust and confidence in government bodies by citizens, who receive public services. According to Decision No. 6 of 2012, the Code of Conduct and Ethics for Civil Service was approved by the Council of Ministers. In coordination with relevant government bodies and civil society organisations, the GPC established a higher national committee to supervise implementation of the Code of Conduct. Targeting civil servants, the committee organised training workshops on the Code of Conduct at the GPC and some government agencies.

The NPA 2017-2022 includes national policies that promote integrity, placing a special emphasis on the Code of Conduct and Ethics for Civil Service as a tool to realise the values of integrity and professional ethics in public office and positions. The NPA provides for institutionalising government bodies’ compliance with, training on, and promotion of the Code of Conduct.<sup>44</sup>

Incorporating the Code of Conduct into the National Strategic Plan for Civil Service: The GPC rejuvenated and incorporated the Code of Conduct and Ethics for Civil Service into the National Strategic Plan for Civil Service 2017-2022. Strategic Goal 1 provides for developing and promoting oversight of the legislation and regulations for the civil service sector. This goal is translated into several objectives, including raising legal awareness and promoting compliance with laws and ethics of public office. To this end, laws, bylaws and codes of conduct are incorporated into training programmes at educational institutions and National School of Management. In addition, the GPC is finalising training on the Code of Conduct and Ethics for Civil Service. According to the outputs of Strategic Goal 1, “Civil servants possess adequate knowledge of the legal environment and conduct associated with civil service. Civil servants comply with the value system, code of conduct and ethics of public office.” The National Strategic Plan for Civil Service also highlights and complements the GPC efforts towards institutionalising government bodies’ compliance with the code of conduct and fight against corruption by continuing the training project, which targets civil servants, in partnership with the PACC. The training provides the groundwork, which informs human resources of ethical standards in their work.

The Code of Conduct for LGU Staff: The Ministry of Local Government has not developed a code of conduct for all LGUs until the time of reporting.

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42 AMAN, Part-time Employment in Public Office and Positions is an Entry Point to Conflict of Interests: A Review of the Current Content in the Palestinian Authority, 2018.

43 Council of Ministers Decision No. (SF/CoM/1404/23/) of 2012, 23 October 2012.

44 NPA 20172022-, p. 32.

Code of Conduct for Security Personnel: Some security agencies have developed and adopted their own codes of conduct, including the General Intelligence, Preventive Security, Civil Defence, Police, and Military Intelligence. For example, in 2015, the General Intelligence agency prepared the Code of Conduct and Ethics for General Intelligence Personnel. In 2012, the Code of Judicial Conduct for Military Judges and Military Prosecutors was published.<sup>45</sup> The Code of Conduct for Police Personnel was developed in 2013 and approved in 2014. The Military Intelligence produced its code of conduct in 2017 and the Preventive Security and Customs Police in 2014. The National Security Force implement the Code of Ethics for Security Officers, which was jointly adopted in a 2011 conference held by Arab member states of the Arab League of States. This has been approved by the National Security Forces as code of conduct for National Security personnel.

SAACB: The SAACB adopted and rolled out its Code of Professional Conduct for the State Audit and Administrative Control Bureau to SAACB staff. On an annual basis, SAACB staff signed the Annual Compliance Certificate form. According, staff members confirm that they have read and understood the provisions of the SAACB Code of Professional Conduct. They also confirm their compliance with and continued implementation of the Code of Conduct, and that they do not seek any interests with run counter, either practically or prima facie, with those of the SAACB. The Code of Conduct is one authoritative reference, which the Bureau refers to in promotion and performance appraisal. The SAACB also holds staff to account if they violate the provisions of the Code of Conduct. Accordingly, the Bureau also confers an Award for Outstanding Employee.

Private sector: In 2009, the National Committee for Governance and Palestinian Capital Market Authority (PCMA) published the Code of Conduct for Corporate Governance. In addition, the Palestine Monetary Authority (PMA) released the Corporate Governance Guide for Banks in Palestine: Rules and Best Practices. In practice, however, private corporations are not bound to governance rules. Measurement indicators for corporate compliance with the implementation of these rules are lacking. The PCMA started applying governance index to registered private corporations, but has not published results. Publication is left for each company.

In practice, the GPC has played a pivotal role in implementing the Code of Conduct and Ethics for Civil Service. The GPC Directorate General for Legal Affairs chairs the National Committee for the Code of Conduct and Ethics for Civil Service. In this committee, the GPC has implemented the Code of Conduct through a set of mechanisms as follows:

- Launching the Code of Conduct and signing MoUs: Under the aegis of the Prime Minister, the GPC signed a MoU with the PACC on 28 October 2014 to implement programmes and activities of the National Committee for the Code of Conduct. In cooperation with the PACC, under auspices of the Prime Minister and in presence of political officials, the GPC launched the Code of Conduct and relevant National Training Programme.<sup>46</sup>
- Developing a Training of Trainers Manual for the Code of Conduct and Ethics for Civil Service: The manual was developed in the context of the GPC Strategic Plan for improving service delivery by all government departments in the civil service sector. Commissioned by the National Committee on the Code of Conduct, a team of training experts compiled the manual. These were trained by the GPC within the framework of cooperation between the GPC, UNDP and Continuing Education Centre of Birzeit University. The manual

45 Decision of the Director of the Military Justice Authority No. 1 of 2012 on the Code of Judicial Conduct for Military Judges and Military Prosecutors, 19 June 2012, Palestinian Official Gazette, Issue 97, p. 9395-.

46 AMAN, Role of Oversight Bodies in Monitoring the Implementation of the Code of Conduct and Ethics for Civil Service. 2017.

makes clear the provisions of the Code of Conduct and includes a training plan to develop needed skills, knowledge and expertise. The manual targets civil servants and contracted employees. In partnership with the PACC, the GPC printed out and distributed 1,000 copies of the manuals to trainers who deliver training on the manual.<sup>47</sup>

- Preparing trainers to provide training on the Code of Conduct: In collaboration with the PACC, the GPC prepared trainers from among civil servants, who were selected in line with particular criteria. At the first stage, 28 trainers will train other civil servants on the Code of Conduct, starting with employees of the higher category and ending with all public sector staff.<sup>48</sup>
- Training on the Code of Conduct: In partnership with the PACC and AMAN, the GPC organised many training courses for civil servants, starting with higher category employees and others of various grades. Out of 90,862 civil servants, 50,000 (West Bank) were trained on the Code of Conduct.<sup>49</sup> Additionally, the GPC provided training to participants in the Leadership Development Training Programme, which the Council organised at the National School of Management.<sup>50</sup>
- Printing and distributing the Code of Conduct: In partnership with the PACC, the GPC printed out 100,0000 copies of the Code of Conduct for distribution to civil servants during relevant training sessions.<sup>51</sup>
- Incorporating the Code of Conduct into indicators of performance appraisal forms: One mechanism to ensure compliance with the Code of Conduct is to consider relevant provisions as indicators, on the basis of which civil servants’ performance is evaluated. To this avail, the GPC has implicitly incorporated some provisions within indicators of various performance appraisal forms. An explicit reference is made to compliance with the Code of Conduct in the performance appraisal form of the teaching staff of government higher education institutions. However, the GPC is working towards explicitly providing for compliance with the Code of Conduct in various performance appraisal form, which the Council is currently developing.
- Reasoning disciplinary decisions based on provisions of the Code of Conduct: To ensure due implementation, disciplinary investigation committee, which the GPC establishes or participates as a member, make reference to the provisions of the Code of Conduct in the context of providing reasoning for relevant administrative decisions. Committees impose disciplinary penalties on civil servants, who violate the rule and provisions laid out by the Code of Conduct.

To examine how serious the Code of Conduct is taken by civil servants, AMAN conducted a special opinion poll on the Code of Conduct and Ethics for Civil Service in 2017.<sup>52</sup> Results of the poll revealed that, compared to 31 percent, 69 percent of the employees had knowledge of the existence of the code. According to their grades, employees of the high or special category were the most informed of the Code of Conduct.<sup>53</sup>

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47 Ibid.

48 Ibid.

49 Ibid.

50 Ibid.

51 Ibid.

52 AMAN, Special Opinion Poll on How Public Sector Staff are Aware of the Code of Conduct and Ethics for Civil Service, 2017.

53 Ibid.

The opinion poll also showed that less than half of the employees received awareness training on the Code. Of these, two thirds had this awareness through the GPC. 46 percent of public sector staff said they participated in awareness sessions. 51 percent of the respondents said that procedures for adopting the Code were taken in their institutions. According to the opinion poll, despite the fact that 69 percent of the employees confirmed knowledge of the existence of the code and that less than half of them were aware of its provisions, the results indicated a divergence in their knowledge and understanding of the Code. As it seems, the more in-depth provisions of the Code were discussed, the less knowledge the employee grasped. In that regard, only 28 percent of the employees confirmed their knowledge of the process of reporting corruption, while 51 percent had sufficient knowledge, and 21% said they had no knowledge of it.

In practice, it is observed that:

- To date, a code of conduct for ministers has not been developed. Hence, the Council of Ministers is urged to prepare and issue a code of conduct for members of the Council, as well as establish regulatory procedures, for ministers and PLC members that govern acceptance of gifts and hospitality. In addition, the PLC is also obliged to prepare and issue a code of conduct for its members.
- The Council of Ministers has not taken any measures, nor has it issued forth any instructions to ensure public institutions' compliance with the Code of Conduct and Ethics for Civil Service. In addition, the Council of Ministers has not established a unit or appoint an employee to monitor the implementation of the Code of Conduct. Also, the Council of Ministers has not issued any decisions or instructions, obliging government bodies to publish the Code of Conduct on their websites or by any relevant means.<sup>54</sup>

## Reporting of acts of corruption

Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions. Each State Party shall also take measures to protect reporting persons. (Article 8(4) of the UNCAC).

The Anti-Corruption Law No. 1 of 2005 includes many provisions on the protection of persons who report acts of corruption. Article 18(2) provides that “The Commission shall guarantee to the witnesses, experts and whistleblowers, who are of good faith, the provision of legal, functional and personal protection. The procedures of their protection as well as respective measures shall be identified in accordance with a regulation to be developed by the Commission and issued forth by the Council of Ministers.” Article 19 of the Law also prescribes: “(1) Each public employee who learns about an illegal gain must notify the Commission thereof. (2) The notification, which the employee submits in accordance with Paragraph (1) above, must not constitute a cause for the adoption of any of disciplinary procedures against him or the enforcement of any procedures which [may] jeopardise the status of his position status.”. Article 22 also highlights confidentiality of the complaints to ensure protection of whistleblowers: “The declarations provided for under this Law and the procedures adopted for the investigation and examination of the complaints lodged in regard of the illegal gain shall be deemed to be from among the secrets which may not be revealed except by a decision to be made by the competent court.”

It is noted that the provisions on whistleblowers and their protection pertain to public sector staff. There is no

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54 AMAN, Special Opinion Poll on How Public Sector Staff are Aware of the Code of Conduct and Ethics for Civil Service, 2017.

law on the protection of whistleblowers. It should be noted that protection of persons who report crimes is one of the nine guiding principles of the right of access to information. It is also a key modern human right, which represents another facet of the concept of transparency. It is a pillar of openness and disclosure and a tenet of participation and modern democracy.

The PACC insists that it is solely responsible for receiving and investigating complaints and reports. On its website, the Commission posts a list of addresses for reporting corruption crimes. It publishes advertisements in newspapers and various media outlets to urge the public to report these crimes. In its annual reports, the PACC states the number of complaints and reports it receives on corruption crimes as well as respective procedures and measures, including investigation and referrals to the Corruption Crimes Court.

In spite of the forms of protection mentioned above, protection of whistleblowers in Palestine is still challenged at different legal, institutional and policy scales.<sup>55</sup> The following challenges are of particular note:

- A special regulation provided for the Anti-Corruption Law has not been promulgated to ensure protection of whistleblowers from counter-claims, reprisals and malicious actions. Such a regulation provides protection to eyewitnesses to or persons who report corruption crimes against reprisal, prosecution, threats, assaults, or loss of employment. A draft regulation has been developed by AMAN, including all provisions which protect whistleblowers and encourage others to report cases of corruption.
- The PACC is the only agency that receive reports. The role of other agencies is ignored. These include the relevant department at the institution where acts of corruption are committed, SAACB, Public Prosecution, and Directorate General of Complaints.
- Reporting procedures are unclear. These include forms, replies to whistleblowers, timeframes, and follow up with whistleblowers.
- The competent agency of defining whistleblowers is unidentified, so is the distinction between the whistleblower, witness, victim, and expert.
- In relation to erroneous or malicious reporting, the concept of good faith is unclear.
- Laws are not aligned with the duty of reporting corruption. Clear and explicit legal provisions should be incorporated into all civil service regulations, requiring that all civil servants and similar employees report acts of corruption on the penalty of accountability and disciplinary penalty.
- Limited public awareness of the importance of reporting corruption. Society plays a key role in combating this ailment and changing the negative culture associated with reporting corruption.<sup>56</sup>

## Public procurement

Each State Party shall take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia, the public distribution of information relating to procurement procedures and contracts, establishment of conditions for participation, and an effective system of domestic review. (Article 9(1) of the UNCAC)

<sup>55</sup> AMAN, Guarantees for Promotion of Reporting Corruption, 2015.

<sup>56</sup> AMAN, Challenges to Reporting Corruption in Palestine, 2014.

In 2014, the Law by Decree No. 8 of 2014 on Public Procurement was promulgated with a view to accomplishing the following goals:

- Procurement of supplies, works and services at the best prices, contributing to rationalising expenditures and maintaining quality assurance.
- Promote the principle of fair competition and encourage participation in public procurement procedures by suppliers and contractors.
- Allow equitable opportunities without discrimination and provide fair and equal treatment for all.

The Law by Decree No. 8 of 2014 on Public Procurement sets the legal framework for all public procurement processes. Article 8 provides for establishing the Higher Council of Public Procurement Policies to supervise public procurement processes, bids, government tenders, and all public procurements of official authorities, to make and prepare national policies on public procurement, to enhance performance, and evaluate the effectiveness of public procurement policy. However, the Council is defunct and its oversight role is weak. Against this background, decisions have continued to be made on an exceptional basis on public procurements and tenders, allowing room to go beyond best public procurement rules and standards.

According to the Law by Decree, the Higher Council for Public Procurement Policies is a policy, regulatory body. Reporting to the Council of Ministers, it enjoys an independent financial centre within the public budget. Effective enforcement of the Law by Decree is contingent on how capable the Council is of playing its role; it is the cornerstone in the Law by Decree.<sup>57</sup>

The Public Procurement Portal has been designed.<sup>58</sup> Some ministries and government bodies have started posting information on procurement and tender contracts on the portal. Work is underway to develop standard documents for supplies, tenders, and consultative services. Having been prepared, relevant draft documents are being discussed and approved to be published with support from World Bank and Contractors' Union.<sup>59</sup> Citizens have been allowed access results of decisions on public tenders and supplies. Moreover, companies that have been convicted of violating regulations of the Tender and Procurement Committee have been barred from participating in tenders (i.e. blacklisted). Also in 2017, tenders were posted on websites and especially on the MoF and the Ministry of Public Works and Housing websites.

In spite of the steps towards enforcing the Law by Decree on Public Procurement, many obstacle have precluded full enforcement, particularly activation of the Higher Council for Public Procurement Policies. Challenges include:

- The executive apparatus of the Council is understaffed. There is still a need to appoint qualified cadres to work on the Council.
- Compliance with posting information on public procurement, supplies, tenders and consultative services on the Public Procurement Portal is still limited. In spite of binding legal provisions, many key procurement bodies continue to refrain from posting information on the Portal. The process is proceeding too slowly in this regard.
- Considered as a major component of the Council, the Disputes Review Unit is still inoperative. Although

57 Council of Ministers Decision No. (213 ,(17/137/ January 2017, Palestinian Official Gazette, Issue 133.

58 <http://www.shiraa.gov.ps/shera>

59 Interview with Engineer Faye al-Deek, Chair of the Higher Council for Public Procurement Policies, Ramallah, 27 February 2018.

provided for by the Law and its Bylaw, the complaints system is also dysfunctional. In this context, the Chair of the Higher Council for Procurement Policies indicated that these problems would be resolved over the upcoming stage as the World Bank was willing to support the Council in this area.

- By various means, some government bodies and public institutions have sought to exclude themselves from the scope of enforcement of the Law by Decree. These adopted special procurement regulations on their own. Other government bodies attempted to obtain a decision from the President to exclude them from law enforcement. Under the pretext of their specialised nature, these bodies sought the approval of direct procurement of needed supplies. Direct procurements continued to be conducted on a widespread basis by many line ministries and government bodies. Based on decisions made by the Council of Ministers, direct procurements required considerable amounts of resources, amounting to millions of shekels. In addition, 13 Council of Ministers’ decisions, which were issued between the time the Law by Decree was enacted until February 2018. These decisions permitted direct procurements in all aspects. It is worth noting that monitored procurements did not fall squarely within the conditions and controls provided by Articles 28 and 106 of the relevant Bylaw. The majority of procured commodities were available, subject to competition, and did not fall under the states of emergency prescribed by the Law by Decree.<sup>60</sup>
- The government bears responsibility for monitoring the implementation of the new reform policy and preparing all government bodies to apply the new processes set by the new Law by Decree, promulgated on 28 June 2016. It should be noted that the institutional and functional setup of the Higher Council for Public Procurement Policies still needs to be finalised. Needed budget allocations should be secured to help the Council carry out its tasks. In particular, the Council has to approve consolidated forms of contracts and standard documents of tenders. It should activate the Unified Web Portal for Public Procurement, where tenders are posted. However, current practice shows that tenders continue to be published on the portals of the Directorate General of Public Supplies and Dispute Resolution Unit. Although it is the central body in charge of public procurement, the Council’s dysfunction has debilitated its role of supervision and oversight of public procurement processes.

## Management of public finances

Each State Party shall take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia, (a) Procedures for the adoption of the national budget; (b) Timely reporting on revenue and expenditure; (c) A system of accounting and auditing standards and related oversight; and (d) Effective and efficient systems of risk management and internal control. (Article 9(2) of the UNCAC)

The MoF serves as the main tool for managing public finances. It collects, spends and accounts for direct and indirect taxes and fees, prepares and submits budgets to the PLC for approval, and issues forth regulations and instructions to regulate public finances.

The PA has enacted several laws to govern management of public finances, estimate expenditures and revenues, and control all forms of expenditures. These include the Palestinian Basic Law, which provides for preparing the PA public budget, Public Budget Law No. 7 of 1998, Law on the PA Public Budget, PLC Standing Orders in relation

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<sup>60</sup> AMAN, How Compliant Line Ministries and Public Institutions are with the Restrictions Set by the Exception Clause on the Public Procurement Process in Accordance with the Law by Decree on Public Procurement No. 8 of 2014, 2018.

to the mechanism for public budget approval, and Financial Regulation of PA Institutions.<sup>61</sup>

The PA MoF created the position of the Accountant General in accordance with the Law by Decree by Decree No. 3 of 2008 Amending the Law on the Organisation of the Public Budget No. 7 of 1998.

The Financial Regulation of Ministries and Public Institutions serves as a financial manual, which regulates financial and accounting principles, rules, mandates and powers, and describes the vouchers, documents, forms, accounting records, and rules of bookkeeping and recordkeeping.<sup>62</sup> It also shows how to record revenues and expenditures, transfer and collect revenues, keep cash, set forth the rules of expenditure and disbursement, delineate the types of expenses and rules of conciliations and loans, manage cash assets, close the fiscal year, and manage government debt. Additionally, the Regulation explains the tasks of financial controls throughout government departments.<sup>63</sup>

The Law of Public Debt No. 24 of 2005 regulates management of the public debt. Article 39 of the Law provides that “[e]xternal public debt agreements shall be presented to the Legislative Council for approval and shall be published in the Official Gazette.” This is also confirmed by Article 92 of the Basic Law.<sup>64</sup>

In mid 2017, the Palestinian government officially adopted the Cross-cutting Strategy on Public Financial Management 2017-2022, including criteria for expenditure and public financial accounting. However, the strategy has not been published nor made publically available. The strategy is premised on the “urgent need for reforms” in a number of areas. In this context, pressure continued to be placed by the Civil Society Team for Enhancing Public Budget Transparency, reports of European Union and International Monetary Fund, demanding to implement reforms and adopt recommendations. These include:

- Comply with expenditure in line with sector strategies.
- Implement a rational system to control expenditures.
- Put in place and upgrade internal control systems of public financial management.
- Adhere to transparent and comprehensive accounting systems.

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61 According to Public Budget Law No. 7 of 1998, the Public Budget Department prepares the annual budget proposal of line ministries and public institutions, including financing budget. Pursuant to the Law by Decree No. 3 of 2008 Amending the Law on the Organisation of the Public Budget, the Accountant General is responsible for budget execution. See Powers of the Accountant General above. In accordance with Article 3 of the Organisation of the Public Budget No. 7 of 1998, the following procedures are implemented when the public budget is proposed:

The Council of Ministers shall submit the draft general budget to the Legislative Council at least two months prior to the beginning of the fiscal year. The Legislative Council shall refer the draft to the Budget and Financial Affairs Committee for study and expressing opinion thereon in detail as well as transmit its recommendations in respect thereof to the Council.

The Legislative Council shall hold a special session to discuss the draft general budget law in the light of the Committee’s report and recommendations, and shall pass the draft together with the amendments prior to the beginning of the new fiscal year or return it to the Council of Ministers within a maximum period of one month from the date of its submission to it accompanied with the Legislative Council’s remarks for carrying out the required amendments and return same to the Legislative Council within a maximum period of two weeks from the date of referral in order to adopt same.

The voting on the budget shall be made on chapter by chapter basis.

Notwithstanding the provisions of this law, it shall not be permissible to make transfers between the chapters of the budget except by the approval of the Legislative Council.

62 AMAN, Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption in Palestine, 2015.

63 Ibid.

64 Ibid.

- Promote transparency of the public budget and issue final accounts for the period 2012-2016.
- Expedite to activate the role of the Higher Council for Public Procurement Policies and comply with its decisions on public tenders and procurements.
- Issue and publish accurate period financial reports regularly and in a timely fashion.
- Address short human and financial resources to implement reforms and the strategy, ensuring an incremental approach to implementation in tandem with reform priorities.
- Promote transparency in the budget planning process, ensure public access to relevant information, and enhance government cooperation with the civil society.

In 2017, the government approved the United Portal for Social Assistance (in-kind and cash).

The following observations can be made about the Public Budget 2018:<sup>65</sup>

1. The public budget proposal was not approved by the PLC due to its inaction. Hence, the President formally approves the budget.
2. The complete budget was not published. Only undetailed appropriations of each ministry were providing, together with the distribution of responsibility centres within each sector. Several responsibility centres were also merged within a single responsibility centre.
3. The Citizens Budget was not published in Arabic.
4. The 2017 Public Budget Law did not include a table, showing (short- and long-term) debts and loans of the PA and proposed plans to collect or repay them. The law did not delineate the PA contributions and investments in local and non-local agencies and companies. This information must be provided in reference of Article 21 of the Law on the Organisation of the Public Budget and Financial Affairs.
5. The budgets of 2014 and 2015 lack financial accounts (Report on Financial Accounts). Of course, the final accounts of the 2016 cannot be produced before those of previous years are prepared. This makes accountability for actual expenditures impossible. Compliance with enacted budget laws cannot be validated without issuing the audited final accounts by the SAACB.

The Civil Society Team for Enhancing Public Budget Transparency, whose Secretariat is represented by AMAN, developed a position paper on the 2018 public budget problems. The paper concluded:

- The MoF did not allow a sufficient opportunity to civil society organisations, particularly the Civil Society Team for Enhancing Public Budget Transparency, to access and review the public budget proposal. The Team includes the majority of specialised civil society organisations in the budget in relation to the sectors for which they are responsible. According to the National Policy Agenda 2017-22, the government is committed to strengthening accountability and openness to citizens and facilitating public access to information. However, the current practice does demonstrate any initiatives to implement these commit-

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<sup>65</sup> Civil Society Team for Enhancing Public Budget Transparency, Position Paper on the 2017 Public Budget Proposal, January 2017.

ments. The government stresses that it provides access for, and engages, the civil society in the planning and budgeting processes. If it happens, public engagement in the budget process is formal, partial and selective, only targeting some civil society organisations.

- The Ministry of Finance and Planning did not comply with the principles of transparency, Basic Law, and Public Budget Law No. 7 of 1998 in the public budgeting process. Contrary to the Basic Law and Public Budget Law, the public budget proposal was not submitted within legally prescribed timeframe. Therefore, the budget was not approved on time, negatively impacting ministry and public institution plans.

The following observations are noted in this regard:

- Policies and criteria to identify grades, salaries and honorariums of the directors of non-ministerial government bodies continued to be lacking, resulting in a deeper salary gap. The salaries and honorariums earned by some directors are higher than those made by the PA President.
- The government has maintained a policy of failing to publish financial reports on mid-year and year-end accounts, as well as audited financial report, obstructing accountability for compliance with the 2017 Budget Law by the PLC and SAACB. This also constrains the civil society's role to identify how compliant the government is with the rules of integrity and transparency in public financial management.
- The PLC inaction poses the most formidable challenge to government performance and integrity in public financial management. The same budget line items for dysfunctional PLC expenditures continue to be appropriated.
- In terms of service delivery or management, financial regulations of non-ministerial government bodies are not consistent with the general rules of the PA financial system.
- In many public institutions, privileges granted to higher category staff are incompatible with the weak economic resources of the State of Palestine. These benefits are given at the expense of the rights of tens of thousands of civil servants of lower categories.

## Public reporting

Each State Party shall take measures to enhance transparency and accountability in its public administration, including with regard to its organisation, functioning and decision-making processes. Such measures may include, inter alia, simplifying administrative procedures in order to facilitate public access to the competent decision-making authorities and publishing relevant information. Each State Party shall also take measures, within the available means, to encourage civil society organisations to participate in preventing corruption by raising public awareness about the concept and various forms of corruption. (Article 10 of the UNCAC)

A database is key prerequisite for a successful anti-corruption process. Such a database provides advance information on administrative procedures.

The many websites of government bodies and widespread social media networks in the Palestinian society can be used as a tool to hold the government to account for respective functions and decisions. In addition to TV and radio stations, newspapers, magazines, etc., these can provide a database and allow an opportunity for a broader participation in the decision-making process.

The NPA 2017-2022 highlights promoting transparent government, including the right of access to information, and openness to the public. However, the Law on the Right of Access to Information and Law on National Archive

have not been enacted to date. According to AMAN, the National Archive Law should be approved to manage and regulate archiving processes at the state institutions. The law guarantees the right of access to information. To ensure public availability and promote transparency and fight against corruption, information should be classified and public records distinguished from others. What is necessary now is that both laws are promulgated simultaneously to provide a system for saving and publishing information, safeguarding the right of access to information.

AMAN examined the transparency environment of the official websites of government institutions to identify the extent to which sites adhere to transparency principles and its effectiveness in providing services to the public. In addition to knowing the feasibility of accessing information needed, as well as how valuable the information posted is in terms of providing services to citizens, such as complaints system, periodic reports, strategic plans, financial and administrative reports, and work plans). A sample of 94 official sites were selected that were monitored and navigated, 31 of which belonged to public commissions, institutions and authorities; 17 sites were ministerial, in addition to two sites, the President’s Office and the Prime Minister’s office. Positive results were as follows: The majority of ministries own websites that are easily accessible and are available in Arabic. Most websites provide contact numbers and geographic locations. They also provide the public with a link to file complaints.<sup>66</sup>

However, many of the websites do not include all of the services that are provided to the public. In addition, service guides concerning services are not available in general. The Council of Ministers lists services provided by each ministry or public institution. There are no requirements’ criteria or forms concerning service provision posted on websites. Also, service fees are not posted. The time required to complete transactions and services also is not clear with the exception of a very limited number of sites.

The absence of updating websites was revealed concerning many of the websites. In addition, information was not easily accessed as revealed by almost 50 percent of these websites.

Results also showed that many ministries and institutions do not publish their annual, quarterly, mid-year, evaluation reports, or strategic plans. These include: the Ministry of Health, Ministry of Waqf and Religious Affairs, Ministry of Transportation, and Ministry of Information. Additionally, phone numbers posted on many of these ministries’ websites do not respond to citizens’ needs.

The government withheld publication of its decisions on the Prime Minister’s Office website since April 2017 under the pretext of “site maintenance”, despite demands from NGOs and other institutions requesting the return of publishing information of their site. Publication of decisions were resumed in September 2017, but were limited to decisions concerning religious and public holidays.

Failure to publish reports or delay in issuing them prevents the public from being informed of their content and recommendations. In that regard, civil society has repeatedly called for publication of reports of public institutions in a timely manner.

The following observations are cited about this aspect:

- The Law on the Right of Access to Information has not been published.
- Despite repeated calls by civil society institutions that public institutions should publish their reports in compliance with the law, in 2017 restricting information remained to be the norm, as information was blocked and hence unavailable to the public. This included government’s decisions, strategies, and or

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<sup>66</sup> AMAN, Results of Monitoring Official Websites, 2017.

reports of official parties. Results of the opinion poll, conducted by AMAN in 2017 on corruption and combating it in Palestine, showed that 72 percent of respondents believe that they cannot access public records easily, versus 15 percent who feel that they can. Moreover, the Palestinian Integrity Index 2017, conducted by AMAN every year, indicated that the indicator on the feasibility of citizens having access to public records scored very low (150/1000) due to the continued withholding of information and denial of access to it easily, or finding cooperation to obtain it.

- The government refused to sign the Transparency Pledge, which the Civil Society Coalition for the United Nations Convention against Corruption (UNCAC-Coalition) prepared and which stipulates the need for transparency in government in regards to the periodic review of the extent of progress made in achievements, its adherence to the UNCAC and the involvement of civil society in the review process. The government rejected the request made by civil society based on a “recommendation” made by the PACC since the signing of this document is voluntary and not a mandatory request by the UNCAC and because the review is the work of states and not civil society.<sup>67</sup>
- Although it adopts an openness policy, the government suspended in 2017 the publication of its decisions on the Prime Minister’s Office website. It only publishes decisions concerning religious and public holidays.
- The government insistence on not publishing the signed agreements with Israel on water and electricity harms the interest of the Palestinian people, at a later stage. Also, concluding financial agreements with local companies on concessions or payment of debts without declaring it creates a climate of mistrust.

## The judiciary and prosecution services

Each State Party shall take measures to prevent opportunities for corruption among members of the judiciary, including court staff, create measures to safeguard judicial independence, implement transparent procedures for judicial appointments, develop a national charter for judicial conduct, provide adequate training to officers vested with judicial duties, apply proper court proceedings, provide public access to courts, oblige judges to state reasons in the judgements they render, and pay sufficient remunerations. (Article 11 of the UNCAC)

The Palestinian Amended Basic Law of 2003 mainly lays out the legal framework of the judiciary and prosecution services. In a constitutional provision, the Basic Law establishes the principle of judicial independence. According to Article 97, “[t]he judicial authority shall be independent and shall be exercised by the courts at different types and levels. The law shall determine the way they are constituted and their jurisdiction. They shall issue their rulings in accordance with the law.” This principle is further emphasised by Articles 98 and 99. Article 100 provides for establishing the HJC: “A High Judicial Council shall be created. The law shall specify the way it is constituted, its responsibilities and its operating rules.” The Basic Law also elaborates on some general principles, such as public trial and execution of court decisions.

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<sup>67</sup> AMAN’s Letter, urging the PA to sign the Transparency Pledge, and Council of Minister’s reply to AMAN’s request.

## Corruption Crimes Court

In 2011, the Corruption Crimes Court was formed. In 2012, a permanent panel of judges was appointed to the Court. Fulltime judges serve on the Court. In 2014, the Law by Decree No. 13 of 2014 Amending the Anti-Corruption Law No. 1 of 2005 was promulgated, providing that “By a decision from the High Judicial Council based upon a request from the Chairman of the Commission, a specialised court panel shall be established to consider cases of corruption crimes wherever they occur. It shall convene under presidency of a judge in the degree of the President of a Court of First Instance or a judge, who presides it by a decision from the High Judicial Council or is delegated to preside it from among judges of the Court of Appeals. Its membership shall include two judges, whose degrees are not less than a judge at a Court of First Instance.”

The Anti-Corruption Law has empowered the Public Prosecution to initiate investigation into complaints on corruption crimes and validate suspicions of corruption committed by persons, subjects to the provisions of the Law.

In regard of the Public Prosecution, Article 107 of the Basic Law provides for appointing the Attorney General: “The Attorney General shall be appointed pursuant to a decision issued by the President of the National Authority.” Article 108 of the Basic Law state that “[t]he law shall specify the manner of forming the Public Prosecution service, and its jurisdiction.” In application of this, the Law on the Judicial Authority No. 1 of 2002 was enacted, regulating all matters of the Judiciary, including the Public Prosecution, in terms of appointment, promotion, delegation, and secondment. Among other things, the Law provides the types of courts. Articles 1 and 2 of the Judicial Authority Law reiterate judicial independence. To put in place the independence of this significant body, Article 3 of the Judicial Authority Law safeguards financial independence of the Judicial Authority. The HJC shall prepare the draft budget and transmit it to the Minister of Justice in order for the latter to fulfil the legal requirements according to the provisions of the Law on the Organisation of the Budget and Public Finance. The HJC shall supervise the implementation of the budget of the Judicial Authority.<sup>68</sup>

By Decision No. 28/2006 of the Attorney General, the Economic Crimes Prosecution was established. This, and subsequent Decision No. 21/2012, provides for the jurisdictions of Economic Crimes Prosecution, namely:

1. Combating money laundering crimes;
2. Combating tax and customs evasion; and
3. Combating economic crimes associated consumer protection, price irregularities, fraud, and damage to public health. The Economic Crimes Prosecution also prosecutes commercial cases, including trademark infringements and counterfeiting.

Developed in partnership with AMAN in 2012, a Code of Conduct for Public Prosecutors was approved by the Attorney General and distributed to prosecutors. Incorporated into basic training programmes, the Code of Conduct is observed in internal inspections over prosecutors. Administrative staff are subject to the Code of Conduct and Ethics for Civil Service, approved by the Council of Ministers and issued earlier in 2012. Also, the 2009 Attorney General’s Handbook on Judicial Instructions includes a chapter on prohibited acts by prosecutors. However, the Public Prosecution does not have a register for gifts, which prosecutors may receive in the context of performing their duties.

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<sup>68</sup> Article 3 of the Judicial Authority Law No. 1 of 2002.

The Judicial Inspection Department is tasked with receiving and investigating complaints on prosecutors' functions, conduct, and behaviour. The Department also monitors, inter alia, the valid application and fulfilment of investigation procedures and referrals.

In practice, it has been observed that influential executives had clear impact on the Judiciary, particularly in decisions made by the High Court of Justice and Public Prosecution, undermining public trust in judicial functions and impartiality. According to information released by relevant legal centres, including the Civil Commission for the Independence of the Judiciary and Rule of Law (Istiqlal), more than 90 percent of cases filed by citizens to the High Court of Justice against the State are disposed in favour of the latter. This is a serious indication of the Court's bias to the Executive. It can, therefore, be argued that some executive official interfere with the High Court of Justice decisions.

In this context, results of the opinion poll, conducted in 2017 by AMAN on the state of corruption and combating it in Palestine, showed that 73.2 percent of respondents believe that corruption exists in the Judicial Authority (80 percent in the West Bank; 62 percent in the GS). This reflects the negative perception of the state of the judiciary authority. This finding is supported by results of the Palestinian Integrity Index where the judiciary earned a low score.

Circulars have been habitually distributed to judges, prohibiting them from making media statements except with permission from the HJC Chair or his deputy, on pain of prosecution. Civil society organisations confirm that the HJC has been the main vehicle for various executive interventions in the Judiciary. Like earlier ones, the current HJC Board was appointed by the Executive in violation of the law.

Civil society organisations also highlight that, in addition to violating the International Covenant on Civil and Political Rights, the Law on the High Criminal Court impinges on the provisions of the Amended Basic Law, Judicial Authority Law, Law on the Formation of Ordinary Courts, and Penal Procedure Law. Furthermore, it seriously violates the guarantees of a fair trial, judicial powers and independence, and administration of justice.

Constitutional Court: On 31 March 2016, the Decision No. 57 of 2016 on the Formation of the Supreme Constitutional Court was promulgated. As soon as the announcement was made, Palestinian legal institutions addressed a letter to the President, stressing the need "for establishing the SCC after the constitutional life is resumed, presidential and legislative elections are organised, and Palestinian judicial bodies are consolidated."

According to Palestinian civil society organisations, the Court formation should not be based on political quotas, by which a political party or body controls the Courts: "A political dimension in the court panel casts doubt on the very *raison d'être* of the SCC and its role of safeguarding the Amended Basic Law and protecting constitutional rights and freedoms." The Court impartiality, integrity and independence may not be undermined.

Civil society organisations called on the President to ensure that "formation of the Supreme Constitutional Court takes into account the representation of women as a non-discriminatory criterion to fulfil the State of Palestine's obligations under international human rights conventions, to which it acceded without reservations. Towards maintaining equality, this entails steps towards achieving justice all Palestinian male and female citizens." These organisations also expressed surprise at the secrecy and haste that surrounded formation of the Court, failing to take account of the demands they had submitted in letters sent to President Mahmoud Abbas earlier in 2014.<sup>69</sup>

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69 Statement by 145 legal institutions on the Constitutional Court, <http://www.qudspress.com/index.php?page=show&id=25028>

Over the past few years, judicial independence has been questionable following conflicts over assuming the position of the HJC Chair. Earlier, the HJC Chair was appointed directly by the President without recommendation from the HJC. The appointment was invalidated by the High Court. Again, the appointment of a new HJC Chair was disputed among the HJC Board members, who bargained for sharing the position. This enabled the Executive to place restrictions on the person who holds this office. The candidate for the HJC Chair was, thus, stipulated to sign an undated and advance resignation letter as a condition to hold the office. This condition was imposed on several candidates, constitutes wanton interference in judicial independence, debilitating administrative oversight of the government decisions, and undermining public trust in the judicial system. According to an opinion poll conducted by AMAN, 71 percent of the respondents believed that the Judicial Authority was affected by corruption

## Prevention of corruption involving the private sector

Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures. It shall also promote the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct, promote transparency among private entities, including measures regarding the identity of legal and natural persons, prevent the misuse of procedures regulating private entities, and disallow the tax deductibility of expenses that constitute bribes. (Article 12 of the UNCAC)

In Palestine, outdated laws regulation operations of the private sector. These include, in the West Bank, the Company Law No. 12 of 1964 amended by the Law by Decree No. 3 of 2006, and Law by Decree No. 6 of 2008 on the Amendment of the Company Law. The Company Law No. 18 of 1929 and No. 19 of 1930 are in force in the Gaza Strip.

Company laws do not provide for adequate accounting and auditing standard or effective and efficient protection against corruption. Meantime, other laws govern the private sector operations, including the Law on the Capital Market Authority, Law on the Monetary Authority, Law on Banks, Law on Financial Securities, Law by Decree No. 6 of 2014 on Financial Leasing, Law on the Auditing Profession, etc. Companies are required to appoint certified auditors. To avoid conflict of interests, an auditor may not be appointed if he is a partner to a board member.

The PCMA is tasked with organising and controlling the capital market and companies under its supervision. The Authority put forwards instructions, spelling out a code of conduct for the financial market, disclosure, and listing. According to the Company Law and PMA and PCMA directives, companies and banks should disclose and make publically available their budgets and activities.

The National Commission for Governance of Public Shareholding Companies developed the Code of Conduct for Corporate Governance, which provides many principles of transparency and integrity. Palestinian laws regulating the business environment include a set of principles and rules, which fall within the principles of governance.

In its 2017 annual report, the PCMA highlighted progress and development in the governance of the private sector companies, not only in terms of periodic and initial disclosure, but also this annual report included the achievements of the electronic system, supervision and field inspection of insurance companies, as well as the integration of the corporate governance course into a university course.<sup>70</sup> However, the scoring cards which was developed by PCMA for applying corporate governance standards are still in the pilot stage.

<sup>70</sup> PCMA, Annual Report 2016, 2017

In 2009, the PMA published the Corporate Governance Guide for Banks in Palestine: Rules and Best Practices, which includes a set of important principles.

The PCMA carried out the following tasks:

1. Issued the Instructions for Licensing the Issuance Trustee in reference of Article 75 of the Securities Law No. 12 of 2004. Addressing conflict of interests, Article 4 of the Instructions provides as follows:
  - The Issue Trustee is prohibited from having a commercial or financial interest in the issue, including subscription to loan bonds, or dispose of the loan bonds placed as a pledge to his benefit, except in accordance with the provisions of Article 7 of the Instructions on Issue Trustees or the agreement concluded between him and the issuing company.
  - He is prohibited from serving as a guarantor (underwriter) to pay entitlements for the loan contracts.
  - The Issue Trustee is prohibited from receiving payments of the nominal value, amount of the refunded bonds and interests from the issuing company in order to pay them to bond holders.
2. Prohibited that the functions of the Issue Trustee be combined with the tasks of Custodian and Issuance Manager in the same issue category.
3. Issue Instructions No. 2 of 2008 on Disclosure and Amended Instructions No. 1 of 2013. These address the salaries, honorariums, and allowances for board members, as well as statements that show the amounts which executive management staff earned during the fiscal year. Among other publications, the PCMA released annual reports as well.<sup>71</sup>
4. Prepared a guidance manual to apply the corporate governance scorecard in 2013 and assist companies to meet relevant requirements.
5. Made a decision on transparent trading of securities in 2013. Accordingly, any insider is prohibited from trading company shares within the ten days preceding the board meeting, in which substantial information which has a direct impact on the security price is discussed. The decision also identifies the categories of insiders for the purposes of disclosure and prevention of trading. The decision was released in tandem with the principles of disclosure and transparency in financial transactions and to preserve investor interests.
6. Launched the E-Governance Portal in 2013.
7. Issued Instructions No. 1 of 2014 on the Code of Professional Conduct for Insurance Companies, amending the Instructions on the Code of Professional Conduct for Insurance Companies No. 4 of 2007.
8. Issued a circular, obliging insurance companies to submit reports of actuarial experts, appointed by these companies, together with final financial statement to the PCMA. An insurance company is only allowed to distribute profits to shareholders when the expert report shows surplus funds during the necessary examination of the company's financial position and following approval of the PCMA.

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<sup>71</sup> See Palestinian Office Gazette, Issues 78 and 102.

9. In April 2015, overall results of the pilot phase of the corporate governance scoreboard. The scorecard aimed to assess how complaint public shareholding companies were with the corporate governance rules. According to the most up-to-date international practice, the scorecard provided a quantitative and qualitative assessment in line with a transparent and clear systematic scientific methodology. As a quality addition to promoting corporate governance in Palestine, the model is an important tool that enables many actors, most notably public shareholding company boards and senior managements, to assess the progress towards corporate governance and consolidate best practices. Results can be used by investors and financial analysts to assess the current positions of companies and make the right investment decisions accordingly. The scorecard results also allow an assessment of the progress towards applying governance rules provided by the Code of Conduct for Corporate Governance and making future policies and plans on corporate governance on objective, scientific and accurate grounds. The scorecard is in consistence with the PCMA strategy to promote the tools needed to ensure compliance with governance rules. It also highlights the benefits made by companies by developing and consolidating internal control tools. It further enhance transparency and disclosure towards shareholders, partners, and stakeholders, eventually strengthening corporate governance in Palestine.

In relation to preventing corruption involving the private sector, the following observations are cited:<sup>72</sup>

1. Effective legislation does not incriminate bribery and embezzlement in the private sector. This gap should be bridged in consistence with the provisions of the UNCAC, favourably reflecting on the fight against corruption and eliminating widespread acts of corruption. Still, it should be noted that the lack a number of regulations constitutes a legislative vacuum, which negatively impacts the environment of integrity, transparency and accountability within the private sector. These include the Law on the Promotion of Competition, Anti-Monopoly Law, Law on the Granting of General Franchises, Law on Debt Conciliation, and Amended Company Law.
2. Franchises continue to be granted to private companies in Palestine regardless of a comprehensive legislative framework. A law is not in place to regulate the rules and principles of granting franchises for managing and operating privatised vital service facilities. Absence of a Law on the Granting of General Franchises and Anti-Monopoly Law has generally undermined the oversight role of regulatory bodies. In this context, the government does not apply an approved, published and reliable public policy for service privatisation. Hence, regulatory and oversight bodies have played an ineffective role in control over service providers. The Executive has ended up playing a role of supervision, oversight and, sometime, implementation. A case in point is the telecommunications hector. This task should be placed on the government and society agenda.
3. A regulation or bylaw is not available to regulate movement of senior public officials into the private sector, including ministers, PLC members, or tax and customs officers.
4. Several public shareholding company boards continue to manage public facilities. In cases of conflict of interest, these board do not apply a binding regulation to disclose these cases by relevant members.

## Participation of society

Each State Party shall take appropriate measures to raise public awareness regarding the existence, causes and

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<sup>72</sup> AMAN, Annual Report on Integrity and Combating Corruption Palestine 2013, Ramallah.

gravity of and the threat posed by corruption. Each State Party shall also take appropriate measures to ensure that relevant anti-corruption bodies are known to the public. Civil society organisations will effectively participate in monitoring and reviewing national and international policies and agreements on the fight against corruption. The public will also have access to relevant anti-corruption documents, such as policies, reviews, and assessments. (Article 13 of the UNCAC).

The Law on Charitable Associations and Civil Society Organisations No. 1 of 2000 provides the legal framework, which regulates functions of civil society organisations. NGOs, or so-called civil society organisations, are indispensable for any society. To date, there are almost 3,000 civil society organisations in the West Bank and Gaza Strip, operating in different aspects of life. However, a limited number of organisations are specialised in preserving public funds, promoting integrity, and consolidating transparency, oversight and accountability in public administration and fight against corruption. In cooperation and coordination with AMAN, a number of civil society organisations established coalitions, most notably the Civil Society Team for Enhancing Public Budget Transparency and Civil Forum for Promotion of Good Governance in the Security Sector. The NGO Development Centre (NDC) and AMAN jointly contributed to providing administrative and financial capacity building to several civil society organisations to help improve internal governance settings and promote in-house accountability.

On 28 July 2016, based on a decision from the Council of Ministers, a government committee was established to communicate and partner with civil society organisations. However, since it was formed, the committee only convened twice. It only invited some civil society organisations on a selective basis, which did not reflect a real participatory approach by the government. In spite of the prejudiced and unfavourable government position, the civil society continues to participate in, exercises accountability for, and provide popular control over the government functions.

As a result of the government's insistence on restricting media freedoms, civil society organizations that are members of the joint committee with the government, announced the failure of this joint committee. This was based on the results of this decision on the ground, where arrests, summonses, and attacks against journalists and citizens were repeatedly carried out, and hence hindering accountability.

## Measures to prevent money-laundering

Each State Party shall take measures to use international best practices, including a regime that emphasises requirements for customer and beneficial owner identification, record-keeping and the reporting of suspicious transactions; ensure that relevant authorities have the ability to cooperate and exchange information at the national and international levels; consider the establishment of a financial intelligence unit; consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders; include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator; apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator; and endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering. (Article 14 of the UNCAC)

In 2007, the first Palestinian Anti-Money Laundering Law No. 9 of 2007 was promulgated. Palestine also enacted the Amended Anti-Money Laundering and Counter-Terrorism Law No. 20 of 2015<sup>73</sup>, and Anti-Money Laundering and Counter-Terrorism Law No. 13 of 2016. The National Committee to Combat Money Laundering and Prevent

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<sup>73</sup> Law on Combating Money Laundering and Prevention of Terrorism No. 20 of 2015, Palestinian Official Gazette, Issue 10, 30 December 2015.

Terrorism published a set of relevant instructions. The law includes needed provision to combat money laundering. In addition, Palestine established, the National Committee to Combat Money Laundering and Prevent Terrorism, issued instructions on politically exposed person, and set up the Financial Follow Up Unit.

Article 5 of the Law provides that competent authorities and law enforcement shall have access to and investigate information in cases of suspicion of money laundering.

The Anti-Money Laundering Law includes a table (Table 2), identifying non-financial businesses and professions, which are subject to the law. These include real estate agents and real estate brokers, dealers in precious metals, dealers in precious stones, dealers in high value goods, dealers in antiquities, lawyers, accountants, trust and company service providers, and firms that provide to third parties on a commercial basis. The Law also furnishes the power to add any other activities carried out by natural or juridical persons, which give rise to the risks of money laundering. The Law provides that the National Committee to Combat Money Laundering shall have the right to assess compliance of these persons with the anti-money laundering procedures either fully or partly.

Article 6(5) of the Law provides for the need to have appropriate risk management systems to determine if a customer or a beneficial owner is a politically exposed person. The Article prescribes that increased and ongoing monitoring of the business relationship should be provided. Approval should also be obtained from senior management before establishing a business relationship with the customer. However, these conditions do not apply to persons working abroad as well as to foreigners and their families and companies.

The Anti-Money and Laundering Law defines “Beneficial owner” shall mean the natural person who ultimately owns or controls a customer or an account, the person on whose behalf a transaction is being conducted, or the person who exercise ultimate effective control over a legal person or arrangement.

Article 6(1), (3), (5) and (7) of the Anti-Money Laundering and Counter-Terrorism Law provide a list of the conditions and procedures to identify beneficial owners when establishing a business relationship with the customer in high risk cases.

Article 23 of the Law identifies the competent authorities, which can access information on beneficial ownership, namely the Financial Follow Up Unit. This information is not available to all law enforcement agencies and tax authorities. The Unit is vested with the power to refer the results of information analysis concerning established proceeds of crime to the competent authorities and to submit reports thereon to the Attorney General, who takes necessary precautionary measures in accordance with Article 31 of the Law.

Article 5(4) of the Instructions No. 2 of 2016 on Anti-Money Laundering and Combating the Financing of Terrorism for Banks and Instructions No. 4 of 2016 on the Entities Subject to Control by the Capital Market Authority delineate the information pertaining to beneficial ownership, including the customer’s name, nationality, identity number, personal or commercial address, nature of business, income, and sources of wealth.

The Law does not allow public access to information on beneficial ownership. This information is not made publicly available either fully or partly.

Instructions No. 2 and No. 4, issued forth in accordance with the Anti-Money Laundering and Counter-Terrorism Law, provide that information on beneficial ownership of legal entities must be updated on an annual basis. Information must also be updated immediately in the event of doubt concerning the veracity of the information received.

In accordance with Article 23 of the Anti-Money Laundering and Counter-Terrorism Law No. 20 of 2015, the

Financial Follow Up Unit was established as an independent entity and seated at the PMA offices. The Unit seeks to combat money laundering, protect national economy against the negative impacts of this crime, enhance anti-money laundering systems and procedures in Palestine, and improve local cooperation between all competent authorities. The Financial Follow Up Unit reports to the National Committee to Combat Money Laundering, which makes policies and works towards developing an effective system to combat money laundering. According to Article 23 of the Law, the Unit exercises a number of mandates, including:

- Receiving and requesting information from the entities subject to the provisions of this Law by Decree.
- Analysing the information mentioned under Paragraph 1 of this Article.
- The director and staff of the Unit shall be vested with judicial tasks when they implement the tasks of their functions in accordance with the provisions of this Law by Decree.

The Financial Follow Up Unit was established. A plan to combat money laundering has been implemented by collecting, analysing and delivering information on suspected operations to judicial bodies. The Anti-Money Laundering and Counter-Terrorism Procedure Manual for Banks was also prepared in 2017.

Circulars were distributed to the Palestinian banking system, making clear the role of banks in combating money laundering and obliging banks to report suspected operations. Accordingly, banks are committed to appointing compliance controllers in reference of the recommendations of the Basel Committee on Banking Supervision. These provide monitoring and verify banks' compliance with the laws, regulations and instructions issued by the PMA. They also follow up on banking and financial operations to maintain the reputation and avert risks and abuse of the banking system.

The National Committee to Combat Money Laundering has issued a number of instructions:

- Instructions on the disclosure of cash amounts when they are entered through crossing points into the PA territory (No. 4 of 2009).
- Instructions on politically exposed persons (No. 1 of 2014). These identify politically exposed persons as those who hold any of the following offices or positions, whether they are locals, foreigners as well as members of their families and those closely associated with them: persons holding high-level political office or senior positions; president of the state and his advisors; directors of institutions reporting to the President's Office; Chair and members of the Council of Ministers and those alike; undersecretaries and those alike; directors and directors general in government and public positions and those alike; directors and heads of public authorities and institutions and those alike; PLC Speaker and members; HJC Chair and members; court judges of all instances; prosecutors; commanders, officials, directors departments and units of security agencies at HQ and district offices; directors and officials of public security; directors of departments and divisions of public security at HQ and district offices; commanders and senior ranking officials in political parties and Palestinian factions; persons holding senior positions in parties and factions; directors, deputy directors and board members of institutions, charitable associations, and local and foreign NGOs and civil society organisations; ambassadors, consuls and members of the diplomatic corps; heads, directors, deputy directors and representatives of international organisations ; and executive officers of state-owned companies.
- Instructions No. 2 of 2016 on Anti-Money Laundering and Combating the Financing of Terrorism for Banks.

The PCMA took measures to avoid money laundering. Of these, the "Know Your Customer" application prohibits financial brokerage firms from accepting cash payments. All financial transactions are transferred

through bank accounts so that banks can recognise the identity of traders. This measures was applied by the PMA in accordance with the Monetary Authority Law No. 2 of 1997.

- According to the principle of disclosure policies, all staff members of entities subject to control, particularly those who assume senior positions, such as directors general and board members, must disclose all their financial transactions as well as of their relatives up to the first degree. All these transactions should be subject to control and auditing.<sup>74</sup>

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74 AMAN, Annual Report on Integrity and Combating Corruption Palestine 2008, p. 14.

## Chapter V : Asset recovery

Regulating asset recovery, Articles 51-59 of the UNCAC provide that States Parties shall afford one another the widest measure of cooperation and assistance in this regard. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions. These articles also urge States Parties to issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention.

In this context, Palestine continues to face multiple legislative and practical challenges. These concern the conclusion of bilateral agreements and accession to international conventions on judicial cooperation for stolen asset recovery, execution of court decisions, and extradition.

The State of Palestine has made somewhat good efforts, including in the following areas:

### Politically exposed persons

The National Committee to Combat Money Laundering issued Instructions No. 1 of 2014 on Politically Exposed Persons. These identify politically exposed persons as those who hold any of the following offices or positions, whether they are locals, foreigners as well as members of their families and those closely associated with them:

1. Persons holding high-level political office or senior positions; the President of the State and his advisors; directors of institutions reporting to the President's Office; Chair and members of the Council of Ministers and those alike; undersecretaries and those alike; directors and directors general in government and public positions and those alike; directors and heads of public authorities and institutions and those alike; PLC Speaker and members; HJC Chair and members; court judges of all instances; prosecutors; commanders, officials, directors departments and units of security agencies at HQ and district offices; directors and officials of public security; directors of departments and divisions of public security at HQ and district offices; commanders and senior ranking officials in political parties and Palestinian factions; persons holding senior positions in parties and factions;
2. Directors, deputy directors and board members of institutions, charitable associations, and local and foreign NGOs and civil society organisations;
3. Ambassadors, consuls and members of the diplomatic corps;
4. Heads, directors, deputy directors and representatives of international organisations ; and
5. Executive officers of state-owned companies.

The Anti-Corruption Law No. 1 of 2005 as Amended does not explicitly define politically exposed persons. Article 2 of the Law provides a list of entities subject to the provisions of the Law:

1. The PA President, his advisors, directors of the institutions reporting to the President's Office;
2. Head and members of the Council of Ministers, and the persons alike;
3. PLC Speaker and members;

4. Members and staff of the Judicial Authority and Public Prosecution;
5. Heads of PA authorities and agencies;
6. Governors, and the heads, members and staff of LGU councils;
7. Employees;
8. Managers and members of the boards of directors and executive directors of public shareholding companies in which the PA or any of its institutions is a shareholder;
9. Collection officers, their representatives, trustees of deposits and banks;
10. Arbitrators, experts, receivers, creditors’ representatives, and liquidators;
11. Heads, members and staff of the boards of directors public authorities and institutions, charitable associations, and civil society organisations, which enjoy independent juridical personality as well as financial and administrative independence;
12. Parties, trade unions and those alike, and employees in any of these even if they do not receive support from the public budget;
13. Persons assigned to deliver a public service in relation to the work assigned to them;
14. Any non-Palestinian person who holds office in any legislative, executive and judicial institution of the PA, and a person who performs a public function to the benefit of any public agency, establishment or civil society organisation reporting to a foreign country or international public institution; or
15. Any other person or agency whom the Council of Minister decides to subject to the provisions of this Law.

The Law by Decree No. 20 of 2015 Anti-Money Laundering and Combating the Financing of Terrorism defines the politically exposed person as “the person who holds or has held public political positions or is or has been entrusted with prominent public functions in Palestine or abroad, and such person’s members of his family, those associated with him/her and his/her partner, including leaders of political parties, judges, members of the Legislative Council, members of the Public Prosecution, officials of state-owned companies, directors of institutions, entities, charitable associations and civil society organisations, authorities reporting to the State of Palestine or to any other state, and the heads and representatives of international organisations.”

The researcher asked Mr. Wael Lafi, Chair of the Financial Follow Up Unit, about practice aspects and if a public list of the names of politically exposed persons exist. Mr. Lafi said there was no list of names, which is regularly distributed to banks to monitor the movement of cash. However, as mentioned above, Article 3 of Instruction No. 1 of 2014 on Politically Exposed Persons identifies political exposed persons. It is worth noting that these instructions are applicable to all financial institutions, non-financial businesses and professions, and relevant branches about abroad to the extent permitted by the laws and regulations in force in the countries, in which these branches operate.

Like other customers, records of politically exposed persons are kept in designated places at banks. According to Article 10 of the Law by Decree No. 20 of 2015 as Amended and Article 10 of the Instructions No. 2 of 2016 on Anti-Money Laundering and Combating the Financing of Terrorism for Banks provide that records and documents will be kept for at least 10 years after the date of completion of the financial transaction, termination of the business relation, or completion of the occasional transaction. If the account is closed for investigation cases involving money laundering or terrorism financing crimes, information and documents must be kept until such time

the investigation case ends, provided that the recordkeeping mechanism is in line with acceptable procedures by the Palestinian courts and/or laws in force in Palestine.<sup>75</sup>

## National Committee to Combat Money Laundering

Decision No. 9 of 2007 on Combating Money Laundering and Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism provide for establishing the National Committee to Combat Money Laundering. Article 19 of the Law provides that:

1. Membership on the Committee shall include:
  - a) Governor of the Monetary Authority, or Deputy Governor of the Monetary Authority in his absence, as Chair.
  - b) A representative of the Ministry of Finance and Planning as a member.
  - c) A representative of the Ministry of Justice as a member.
  - d) A representative of the Ministry of Interior as a member.
  - e) A representative of the MoNE as a member.
  - f) Director of Banks Control Department as a member.
  - g) Director General of the Capital Market Authority as a member.
  - h) A legal expert as a member.
  - i) An economic and financial expert as a member.
  - j) Two members who are nominated by the Committee Chair.
2. Representatives of government departments, provided for under Paragraph 1 of this Article, shall be required to from among employees of the higher category.
3. The Committee Chair shall be assigned to appoint a secretary of the Committee from the Unit.<sup>76</sup>

Article 20 of the Law by Decree provides for the Committees' mandates, including:

- Making public policies to combat money laundering and terrorism financing, and prohibit weapons of mass destruction.
- Making policies to guide the Unit's functions and ensure its operational independence.
- Coordinating with the competent authority to ensure implement the policies and procedures needed for easy information flow between the Unit and competent authority.
- Cooperating with the supervisory authority to ensure that entities subject to its control implement the provisions of this Law by Decree.

<sup>75</sup> See relevant articles under the Law by Decree No. 20 of 2015 as Amended and Instructions No. 2 of 2016 on Anti-Money Laundering and Combating the Financing of Terrorism for Banks.

<sup>76</sup> Article 19 of the Law by Decree No. 20 of 2015.

- Keeping abreast of international regional developments regarding combating money laundering and financing of terrorism.
- Representing the State of Palestine in international forums on combating money laundering or financing of terrorism.
- Coordinating with the competent authorities to develop periodic reports, on which instructions are issued by the Committee.
- Submitting annual reports on combating the crime of money laundering or financing of terrorism, or original crimes, to the President of the State of Palestine.
- Granting administrative and financial privileges to the Unit staff based on the recommendation of the Unit Director, in accordance with the regulations applicable at the unit.
- Having access to particular information at the Unit to validate its sound functions.<sup>77</sup>

Later, the Law by Decree No. 13 of 2016 was promulgated to amend Articles 2, 3, and 35 of the Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism. Also, the National Committee to Combat Money Laundering issued Instructions No. 4 of 2016 Anti-Money Laundering and Combating the Financing of Terrorism for the Entities Subject to the Control and Supervisions of the Capital Market Authority.

According to the Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism, the Financial Follow Up Unit was established as an independent entity and seated at the PMA offices. The Unit seeks to combat money laundering, protect national economy against the negative impacts of this crime, enhance anti-money laundering systems and procedures in Palestine, and improve local cooperation between all competent authorities. The Financial Follow Up Unit reports to the National Committee to Combat Money Laundering, which makes policies and works towards developing an effective system to combat money laundering. According to Article 23 of the Law, the Unit exercises a number of mandates, including:

- Receiving and requesting information from the entities subject to the provisions of this Law by Decree in relation to operations suspected of involving money laundering or financing of terrorism or any of the original crimes provided for under Article 3 of this Law by Decree.
- Analysing the information mentioned under Paragraph 1 of this Article.
- Receiving daily paper-based and electronic reports from financial institutions about internal or external financial operations in accordance with the instructions issued by the Committee in this regard.
- The director and staff of the Unit shall be vested with judicial tasks when they implement the tasks of their functions in accordance with the provisions of this Law by Decree.

In 2016, the Council of Ministers issued Decision No. (12/128/17/RH/CoM) on the formation of the National Team for Evaluation of the Risks of Money Laundering and Financing of Terrorism Crimes. Chaired by the Financial Follow Up Unit, the team includes 15 members and reports to the Prime Minister and Chair of the National Committee to Combat Money Laundering and Terrorism Financing. Article 2(6) of the Decision provides for preparing a special budget for the National Team in agreement with the Ministry of Finance and Planning. It shall be included on the 2017 public budget after it is approved by the Council of Ministers.<sup>78</sup>

<sup>77</sup> Article 20 of the Law by Decree No. 20 of 2015.

<sup>78</sup> Government Session 1872018/.

## Financial monitoring of accounts

Article 6 of the Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism provides for the procedures, which financial institutions should follow in relation to the financial monitoring of accounts:

Financial institutions and non-financial businesses and professions should carry out the following:

1. Should not keep anonymous accounts or accounts in obviously fictitious Names and Identify and verify the identities of their customers (natural persons or legal persons) and beneficial owners through reliable documents, data, or records in the following cases:
  - a. The development of a business relationship.
  - b. The execution of any transaction by an occasional customer when:
    - 1) A transaction which value equals or exceeds the value set by the Committee According to instructions issued in this regard, regardless of whether the Transaction is conducted as one transaction or a number of apparently linked Transactions. If the transaction amount is unknown at the time the transaction is conducted, the customer's identity shall be ascertained as soon as the sum is determined or reaches the limit set.
    - 2) A domestic or international transfers.
  - c. Doubt about the accuracy or adequacy of previously obtained data concerning the identity of a customer.
  - d. Suspicion of Money Laundering or terrorist financing.
2. Collect information on the anticipated purpose and intended nature of the business relationship.
3. Exercise requisite, ongoing prudence regarding any business relationship, and carefully study transactions executed and their purpose to ascertain whether they are consistent with the information possessed by any financial institution or non-financial profession or business regarding its customers and the customers' commercial activities, risk file, and when necessary sources of funds according to the law.
4. Adopt specific and adequate measures for dealing with the risks of Money Laundering in a defined way case of establishing a business relationship or executing transactions with customers lack physical presence for ascertaining the customer identity.
5. Have risk management systems in place for determining whether a customer or beneficial owners is a politically exposed person. If this is the case, it is necessary to:
  - a. Obtain the approval of the institution's senior management before establishing or continuing a business relationship with the customer.
  - b. Adopt all reasonable measures to determine the source of [the customer's] or beneficial owners wealth and property.
  - c. Provide greater ongoing surveillance of the business relationship.
6. Regarding cross-border relationships with correspondent banks, financial institutions shall:
  - a. Identify and verify the respondent institutions with which they establish banking relations.
  - b. Collect information on the nature of the activities practiced by the respondent institution.
  - c. Evaluate the reputation of the respondent institution and the nature of the supervision to which it is subject based on published information.
  - d. Obtain the approval of senior management before establishing a banking relationship with the respondent institution.
  - e. Evaluate the anti-Money Laundering controls and countering the financing of terrorism implemented by the respondent institution.
  - f. Ascertain, in the event of payment from payable through accounts, that the respondent institution has verified the identity of the customer, that it implements mechanisms for constant surveillance of its customers, and that it is capable of providing relevant identifying information when requested to do so.
7. If financial institutions and non-financial businesses and professions are unable to meet their obligation to exercise the requisite ongoing prudence mentioned in clauses 1-5 of this article, they may not establish or continue in a business relationship, and they must, when necessary, submit a report to the Unit according to this law.
8. Adopt the risk based approach, understand, and identify the risks of money laundering and financing terrorist financing, and set policies and strategies in accordance with risk; as financial institutions shall report the results of taken measures to competent authorities in demand.

A set of provisions of the Company Law, Anti-Money Laundering Law, PMA Law, and PCMA Law set forth rules, regulate the transparency of company statements, and require that accurate records be kept for inspection. Several entities provide auditing and review of companies in line with the financial sector each is responsible for. In

this vein, the PMA controls financial institutions/banks and money changers; PCMA monitors non-banking financial sectors; and Company Controller at the MoNE provides a general framework for control over companies). The majority of public shareholding companies also comply with the Code of Conduct for Corporate Governance.<sup>79</sup>

Article 9(5) of the Anti-Corruption Law No. 7 of 2010<sup>80</sup> vests the PACC with the power to coordinate with the competent authorities to track, seize and restore the properties and revenues accrued from corruption crimes. Under the National Anti-Corruption Strategy 2015-2018, Focus area 4 concerns international cooperation and provides for concluding bilateral and multilateral cooperation agreements between Palestine and countries in the region, especially neighbouring countries, in the field of extradition of criminals, mutual legal assistance, and cooperation in the field of law enforcement, joint investigations, information exchange, and asset recovery.<sup>81</sup>

Article 40 of the Law on Anti-Money Laundering and Combating the Financing of Terrorism provides for the physical confiscation of the property constituting the proceeds of the crime, property constituting the object of the crime, property constituting income or other benefits obtained from such property or proceeds of the crime. In the case of property mentioned in clause (1) of this article, which is owned directly or indirectly by a person convicted of the crime of money laundering or a predicate offence, which property was acquired during the (10) years before the person was charged with the crime, the court may decide to confiscate such property if reasonable grounds exist to indicate that such property constitutes the proceeds of the crime for which the person was convicted, and the person is unable to prove that the property was obtained legally.

In practice, the National Committee to Combat Money Laundering and Terrorism Financing is not assigned by any entity to follow up on particular accounts. The Committee’s mandate is laid out by Article 20 of the Law by Decree No. 20 of 2015 as Amended. On the other hand, the Financial Follow Up Unit is the central national agency, which is tasked with combating the crimes of money laundering and terrorism financing. Chapter 4 of the Law by Decree No. 20 of 2015 as Amended provides in detail for the Unit’s tasks and mandates.

Article 45 of the Anti-Money Laundering Law provides that where Palestine is a party of mutual and or bilateral agreements. Palestine judiciary bodies may execute the foreign judgments of competence of which involve confiscation crime proceeds of money laundering or terrorism financing crime. Article 9(5) of the Anti-Corruption Law also provides for the power to coordinate with the competent authorities to track, seize and restore the properties and revenues accrued from corruption crimes, provided that the decision of seizure thereon is entered by the Court, which is competent of adjudicating the case. Article 9(2) of the Law addresses stolen asset recovery on the domestic level, vesting the PACC with the power to seize accused persons’ movable and immovable properties, prevent them from travelling, and request that the concerned authorities suspend them from work, cease their salary and increments and all of their financial entitlements. In other words, the Palestinian legislature has set forth many legal rules to recover the proceeds of corruption crimes, both internally and externally, provided that a conviction is rendered by the Corruption Crimes Court. In these cases, the onus of proof lies with the Prosecution, rather than with the accused.

In 2012-2016, convictions were rendered in four cases, involving 10 natural persons and one legal person, on charges of laundering money generating from corruption crimes.

At the Ministry of Justice, the International Cooperation Unit was established a specialised unit for asset recovery. The Unit is tasked with following up on all issues of mutual legal aid and international judicial cooperation,

79 MoNE, Public Shareholding Companies, <http://www.pex.ps/PSEWebsite/aboutPSE.aspx-?tabIndex=0>

80 Law by Decree No. 7 of 2010 Amending the Law of Illegal Gains No. 1 of 2005, Palestinian Official Gazette, Issue 87, 26 June 2010.

81 National Anti-Corruption Strategy 20152018-.

including extradition requests, stolen asset recovery, and execution of court decisions. In the context, the PACC refer relevant file to the Anti-Corruption Prosecution, which launches investigation procedures. The Anti-Corruption Prosecution develops the asset recovery note or requests that prejudgment attachment be placed on the accused person's properties. The note is then referred to the International Cooperation Unit, which provides international coordination through the Ministry of Foreign Affairs.<sup>82</sup>

Over the past few years, competent authorities have managed to restore US\$ 70 million out of dozens of stolen millions of dollars. In 2016, court decisions were rendered to restore approximately US\$ 23 million. To executive Palestinian court decisions, in 2017, two requests were submitted to international agencies to recover stolen assets. Another 28 requests were made to prosecute persons charged in corruption cases.<sup>83</sup>

## Preventing the establishment of banks that have no physical presence

Article 52 of the UNCAC provides that “[w]ith the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.”

Within the Palestinian legislative framework, Chapter 2 of the Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism addresses transparency and the obligations of financial institutions and non-financial businesses and professions. To this effect, Article 4 provides: “(1) Financial institutions may not enter into or continue business relationships with registered banks that lack a physical presence [in the Nation and are not Subordinate to a regulated financial group that is subject to the effective supervision by the competent supervisory authorities. (2) Financial institutions may not enter into or continue business relationships with respondent financial institutions in a foreign country if such institutions permit the use of their accounts by banks registered in territories where they lack a physical presence and are not subordinate to a regulated financial group that is subject to effective, supervision by the competent supervisory authorities.”

Article 5 of the Law by Decree also prescribes that the “competent authorities must (1) Maintain, protect, and update adequate, precise information regarding the title and control structure of legal persons established in the National Authority's territories. (2) Inform the Unit and the agencies in charge of enforcing the law of the information stated in clause 1 of this article promptly in cases of suspicion and investigation.

In the Palestinian context, the Law by Decree No. 9 of 2010 on Banks prohibits exercising banking operations (establishment of shell banks) without licence. Article 4 of the Law by Decree provides:

1. Any person in Palestine shall be prohibited from using the word “bank”, “banking agency” or any relevant synonym or other similar expression in any language in his documents, publications, commercial address,

82 Marmash, Nirmeen, Mazen Lahham, and Ismat Sawalhah, *The Framework of Asset Recovery on Local and International Levels*, Institute of Law, Birzeit University, 2015, p. 6063-.

83 PACC, Letter to AMAN on the PACC achievements, 10 December 2017.

name, and advertisement, unless he has obtained a licence issued by the Monetary Authority. Such use shall be in accordance with any effective piece of legislation or under an international agreement, to which the Palestinian National Authority is a party.

2. The representation office of the foreign bank shall be allowed to use the two “bank” or “banking agency” if it constitutes part of the name of foreign bank, provided that the term “representation office” is used in the body of the name.

Article 6 of the Law by Decree on Banks also states:

1. Any person shall be prohibited from commencing any banking operations in Palestine without having obtained a prior written licence issued by the Monetary Authority.
2. It shall be prohibited to register company, whose goals include the exercise of banking business in Palestine, by the Company Controller except after it obtain a preliminary written approval in advance from the Monetary Authority.
3. Any person who wishes to exercise banking business in Palestine must submit an application to obtain the necessary licence from the Monetary Authority.

Article 4 of the Law by Decree No. 20 of 2015 as Amended also provides for severing relations with shell banks:

1. Financial institutions may not enter into or continue business relationships with registered banks that lack a physical presence [in the Nation and are not Subordinate to a regulated financial group that is subject to the effective supervision by the competent supervisory authorities.
2. Financial institutions may not enter into or continue business relationships with respondent financial institutions in a foreign country if such institutions permit the use of their accounts by banks registered in territories where they lack a physical presence and are not subordinate to a regulated financial group that is subject to effective, supervision by the competent supervisory authorities.

On the prohibition of transactions, Article 3 of Instructions No. 2 of 2016 provides:

The bank is prohibited from performing the following:

1. Dealing with unidentified persons, persons who hold false or fictitious names, or persons who are barred from doing business with them in conformity with effective legislation, or based on instructions from the Monetary Authority.
2. Opening digitised accounts.
3. Dealing with shell banks.

Article 44 of the Law by Decree No. 20 of 2015 as Amended prescribes sanctions on offenders:

1. Any person who violates the provisions of this law or any instructions issued in this regard, and does not comply with these requirements deliberately or through gross neglect, shall be deemed to have committed an administrative violation. The supervisory authority may, upon detection the commission of such violation by financial institutions and non-financial businesses and professions, adopt measures and impose one or more of the following penalties:
  - a. A warning to comply with specific instructions.

- b. Submission of periodic reports by the concerned financial institution or non-financial business or professions, stating the measures which it takes or stating compliance with the specified instruction's.
- c. Written warnings.
- d. Imposition of a fine of JD 1,000 – JD 50,000 or the equivalent in the currency in circulation.
- e. Prohibition of persons from employment in financial institutions and non-financial businesses and professions.
- f. Replacement or restriction of the authorities granted to the managers, chiefs, or controlling owners, including the appointment of a special director.

Suspension, restriction, or withdrawal of a license, and a prohibition on continued engagement in the business or profession.

- 2. Information on the measures taken under clause(1) of this article may be published to inform the public.

Prescribing violations and penalties, Article 54(1)-(3) of the Law by Decree No. 9 of 2010 on Banks provide:

- 1. Each person who violates the provisions of Articles 4, 6, 9, 10, 11(1), 11(2), 12, 14, 15, 16, 17, 18, 19, 20, 22, 24, 25(1), 26, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 45, 46, 47, 48, 49, 50, and 51 of this Law shall be subject to a fine of at least (US\$ 5,000) five thousand US dollars and at most (US\$ 250,000) two hundred and fifty thousand US dollars or its equivalent in the current in circulation in Palestine, as well as consequent civil or criminal liability in accordance with the provisions of any other piece of legislation.
- 2. Subject to the previous provisions under this article, each person who violates the provisions of this Law and the regulations, instructions, and decisions issued forth in accordance with it shall be punished by a fine of at least (US\$ 5,000) five thousand US dollars and at most (US\$ 250,000) two hundred and fifty thousand US dollars or its equivalent in the current in circulation in Palestine.

Article 58 of the UNCAC provides that “States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.”

### Special cooperation

Article 56 of the UNCAC provides that “[w]ithout prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.”

## Bilateral and multilateral agreements and arrangements

Article 56 of the UNCAC provides that “States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.” This article is not binding, but optional.

On 27 September 2017, Palestine joined the International Criminal Police Organisation (Interpol). After 74 member states voted in favour with the decision, the State of Palestine was admitted as a member state of the Interpol. This measure is particularly important as Palestine seeks to highlight its legal status as a state. Accession will also allow Palestine to prosecute some fugitives, provided that the states in which they reside are members of the Interpol. Through political lobbying, the State of Palestine can at a later stage request that the Interpol extradite Israelis accused of committing crimes against Palestine if a Palestinian court renders a decision to this effect.

Accession to the Interpol also means that Palestine can file a request to hold to account, arrest, or extradite to another state any Palestinians fugitives, who are accused of committing crimes in another member state of the Interpol.

Having acceded to the Interpol, the State of Palestine can prosecute fugitives (According to a statement by President Mahmoud Abbas at a National Council meeting, dated 30 April 2018, there are almost 80 accused persons involved in corruption cases). Fugitives particularly include persons charged with corruption crimes and embezzlement of public assets. However, the problem lies with Palestine, which has not signed bilateral agreements with states to allow recovery of stolen assets or proceeds of acts of corruption. In very few cases over the past years, the PACC has managed to restore US\$ 70 million out of dozens of stolen millions of dollars. In 2016, court decisions were rendered to restore approximately US\$ 23 million. To executive Palestinian court decisions, in 2017, two requests were submitted to international agencies to recover stolen assets. Another 28 requests were made to prosecute persons charged in corruption cases.<sup>84</sup>

According to official Palestinian sources, cases involving fugitives are as follows:

- Fugitive were sentenced in absentia in 14 cases. These fugitives were outside Palestine.<sup>85</sup>
- The Public Prosecution filed 28 requests to have over fugitives charged with corruption cases.
- Three persons accused of corruption cases in 2017 are outside the country.
- One decision was rendered by a Palestinian court on a corruption case involving a fugitive abroad in 2017. The verdict concerns exploitation of public office.<sup>86</sup>
- Two requests were filed to restore money and assets in execution of relevant court decisions.

According to the Palestinian legal framework, the prosecution of corrupt fugitives is managed by the PACC. However, multiple agencies play overlapping roles in this context, including the Ministry of Foreign Affairs and Public Prosecution. The PACC continues to adopt a policy of settlements with some persons charge with acts of corruption, but are present outside the State of Palestine. This indicates that legal prosecution is inadequate; it involves personal prosecution and recovery of a portion of stolen assets. This is sufficient to close corruption files. It can be argued that this policy does not provide deterrence for other corrupt individuals.

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<sup>84</sup> PACC, Letter to AMAN on the PACC achievements, 10 December 2017.

<sup>85</sup> Reply by Judge Asad al-Shunnar, HJC.

<sup>86</sup> Ibid.

## Conclusions

### Chapter II: Preventive measures

- Although it officially acceded to and signed the Convention in 2014, the State of Palestine has not adopted the UNCAC as a national law, nor has it been published in the Palestinian Official Gazette. The provisions of the UNCAC have not, therefore, been binding on mandate holders in line with the constitutional and procedural requirements of the operative legal framework.
- A comprehensive, objective and participatory government national cross-cutting strategy on the fight against corruption has not so far been developed. The strategy should be compiled, implemented and overseen jointly by government bodies, representatives of civil society organisations, and private sector. It will include an annual executive plan, making clear specific activities and interventions for implementation as well as the role of every partner in line with clearly defined timeframes and reporting mechanism.
- To a large extent, public officials submitted financial disclosure statements. In addition, the PACC has played its legally prescribed role in developing, distributing, collecting and keeping financial disclosure forms received from relevant public officials. However, financial disclosure statements are not examined nor audited. They are kept secretly from relevant bodies and the public, with the exception of extraordinary cases and with prior permission from the competent court. Hence, financial disclosure system is ineffective as to accomplish the desired goals, particularly in preventing corruption and impunity. In principle, the financial disclosure system is designed to counteract illicit enrichment, which demonstrates strong presumption of cases of corruption after they are revealed (such presumption was invoked in six cases only towards mid 2017).
- The PACC plays its role in accordance with the Palestinian Anti-Corruption Law. It also functions in consistency with the UNCAC. However, there is still a gap between the complaints and reports filed to the PACC, those referred to the Anti-Corruption Prosecution, and decisions rendered by the Corruption Crimes Court. According to recent opinion polls, Palestinian citizens are of the view that anti-corruption efforts are inadequate. Others indicate that external interventions in the PACC functions negatively impact independence of the Commission.
- According to the Basic Law and other laws in force in Palestine, in addition to the PACC, some authorities and institutions have been established to promote integrity and prevention of corruption. Vested with particular oversight powers, these include the SAACB, internal control committees, internal audit and inspection departments, and Directorate General of Complaints. Although they developed periodic reports, some of these bodies do not publish their reports on time.
- The State of Palestine has not complied with the UNCAC rules in relation appointments at higher posts, which have continued without transparency or fair competition, in disregard for the principle of equal opportunity. No job announcements were published in the newspapers, nor were there any competitions over appointments. Furthermore, job descriptions were not completed and appointments were conducted without monitoring from an official authority. The GPC did not supervise appointments, promoting the practice of favouritism and heightening conflicts in the race to access these positions. In 2018, there were around 40 appointments in, and 72 promotions to, higher category positions.
- An integrated institutional system that controls and supervises electoral campaigns is lacking. The CEC plays a limited oversight role on campaign funding. The CEC role is limited to receiving financial reports

from candidates and electoral lists, but can also request that these reports be audited by certified auditors. Additionally, the Elections Law does not assign a role to the CEC to detect and investigate violations associated with funding and spending on electoral campaigns.

- A special regulation, which wards off conflict of interests in civil service, is not in place. This is still the case although pieces of legislation of various degrees, first and foremost the Basic Law, include provisions that stress the need for fulltime employment by some holders of elective public office to prevent cases of conflict of interests, which give rise to suspicions of corruption.
- The GPC has played a pivotal role in implementing the Code of Conduct and Ethics for Civil Service. Through the National Committee for the Code of Conduct and Ethics for Civil Service, the GPC has implemented the Code of Conduct through a set of mechanisms. To date, however, a code of conduct for ministers has not been developed, nor have regulatory procedures that govern acceptance of gifts and hospitality by for ministers and PLC members been established. In addition, a code of conduct for PLC members has not been issued forth.
- The Council of Ministers has not taken any measures, nor has it issued forth any instructions to ensure public institutions’ compliance with the Code of Conduct and Ethics for Civil Service. In addition, the Council of Ministers has not established a unit or appoint an employee to monitor the implementation of the Code of Conduct. Also, the Council of Ministers has not issued any decisions or instructions, obliging government bodies to publish the Code of Conduct on their websites or by any relevant means.
- A special regulation provided for the Anti-Corruption Law has not been promulgated to ensure protection of whistleblowers from counter-claims, reprisals and malicious actions.
- The Law by Decree on Public Procurement has been promulgated, ensuring integrity and transparency of public procurements and tenders. However, by various means, some government bodies and public institutions have sought, and managed, to exclude themselves from the scope of enforcement of the Law by Decree. This is due to inadequate government monitoring and control over the implementation of the new reform policy. The government has not obliged or prepared all government bodies to apply the new processes set by the new Law by Decree. The Higher Council for Public Procurement Policies is not fully operational. It still needs to finalise needed regulations and procedures to carry out its tasks. For example, consolidated forms of contracts and standard documents of tenders should be approved. The Council also should activate the Unified Web Portal for Public Procurement.
- Despite the fact that the State of Palestine joined the Open Government Partnership initiative, it has not fulfil accession requirements, most notably transparency in public financial management. The government has maintained a policy of failing to public financial reports on mid-year and year-end accounts, as well as audited financial report and final accounts, obstructing accountability for compliance with the 2017 Budget Law by the PLC, SAACB, and civil society.
- The Law on the Right of Access to Information has not been enacted, obstructing access to public information. In this context, for a year and half, the government has withheld publication of its decisions on the Prime Minister’s Office website.
- Over the past few years, judicial independence has been questionable following conflicts over assuming the position of the HJC Chair. Earlier, the HJC Chair was appointed directly by the President without recommendation from the HJC. The appointment was invalidated by the High Court. Again, the appointment

of a new HJC Chair was disputed among the HJC Board members, who bargained for sharing the position. This enabled the Executive to place restrictions on the person who holds this office, constituting wanton interference in judicial independence, debilitating administrative oversight of the government decisions, and undermining public trust in the judicial system.

- Effective legislation does not incriminate bribery and embezzlement in the private sector. This gap should be bridged in consistence with the provisions of the UNCAC, favourably reflecting on the fight against corruption and eliminating widespread acts of corruption. Still, it should be noted that the lack a number of regulations constitutes a legislative vacuum, which negatively impacts the environment of integrity, transparency and accountability within the private sector. These include the Law on the Promotion of Competition, Anti-Monopoly Law, and Law on the Granting of General Franchises.
- In the State of Palestine, community participation is pro forma. A government committee was established to communicate and partner with civil society organisations. However, since it was formed, the committee only convened twice. It only invited some civil society organisations on a selective basis, which did not reflect a real participatory approach between the government and civil society organisations.
- According to the Law by Decree No. 20 of 2015 on Anti-Money Laundering and Combating the Financing of Terrorism, the Financial Follow Up Unit was established as an independent entity and seated at the PMA offices. The Unit exercises a number of mandates. In addition to analysing information, the Unit receiving and requests information from the entities subject to the provisions of the Law by Decree. The director and staff of the Unit shall be vested with judicial tasks when they implement the tasks of their functions in accordance with the provisions of the said Law by Decree.

## Chapter V: Asset recovery

- Palestine continues to face multiple legislative and practical challenges. These concern the conclusion of bilateral agreements and accession to international conventions on judicial cooperation for stolen asset recovery, execution of court decisions, and extradition.
- In 2016, the Council of Ministers issued a decision on the formation of the National Team for Evaluation of the Risks of Money Laundering and Financing of Terrorism Crimes. In 2018, the National Report on Evaluation of the Risks of Money Laundering and Financing of Terrorism Crimes was developed, but has not been published until the time of reporting.
- In practice, the National Committee to Combat Money Laundering and Terrorism Financing is not assigned by any entity to follow up on particular accounts. The Committee's mandate is laid out by Article 20 of the Law by Decree No. 20 of 2015 as Amended. On the other hand, the Financial Follow Up Unit is the central national agency, which is tasked with combating the crimes of money laundering and terrorism financing. Chapter 4 of the Law by Decree No. 20 of 2015 as Amended provides in detail for the Unit's tasks and mandates.
- At the Ministry of Justice, the International Cooperation Unit was established a specialised unit for asset recovery. The Unit is tasked with following up on all issues of mutual legal aid and international judicial cooperation, including extradition requests, stolen asset recovery, and execution of court decisions. In the context, the PACC refer relevant file to the Anti-Corruption Prosecution, which launches investigation procedures. The Anti-Corruption Prosecution develops the asset recovery note or requests that prejudgment attachment be placed on the accused person's properties. The note is then referred to the International Cooperation Unit, which provides international coordination through the Ministry of Foreign Affairs.

- Over the past few years, competent authorities have managed to restore US\$ 70 million out of dozens of stolen millions of dollars. Restored money is deposited in a special account, called Trusts, at the Public Treasury. In 2016, court decisions were rendered to restore approximately US\$ 23 million. To executive Palestinian court decisions, in 2017, two requests were submitted to international agencies to recover stolen assets Another 28 requests were made to prosecute persons charged in corruption cases.
- On 27 September 2017, Palestine joined the Interpol. The State of Palestine was admitted as a member state of the Organisation. Accession will also allow Palestine to prosecute some fugitives, provided that the states in which they reside are members of the Interpol.

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The Coalition for Integrity and Accountability (AMAN) is the Palestinian Chapter of Transparency International Organization since 2006. It was established in 2000 by a number of civil organizations active in the area of democracy, good governance and human rights. It aims to achieve a „corruption-free Palestinian Society”. AMAN endeavors to create and lead cross-sectoral community mobilization to combat corruption and produce, transfer and localize knowledge of corruption and its fighting at national, regional and international levels.

AMAN is keen of its watchdog role to oversee the national integrity system and focus on community participation and activation of the role of civil society organizations and the media in overseeing, accountability and in the creation of an immune environment in addition to detecting the crimes of corruption and minimize their spread.

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