



Country Review Report:

**The State of Palestine on the Implementation of Chapter II
“Preventive Measures” and Chapter V “Asset Recovery” of
the United Nations Convention against Corruption (UNCAC)**



AMAN
Transparency Palestine



The Coalition for Accountability and Integrity (AMAN)

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► Summary

On April 2, 2014, The State of Palestine acceded to the United Nations Convention against Corruption (UNCAC); nevertheless, the Convention was not adopted as a national law, nor has it been published in the Palestinian Official Gazette. According to an agreement between the State Parties of the UNCAC, the State of Palestine is committed to undergo a two-cycle review process, which 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, which covered the implementation by the State of Palestine of Chapter III and Chapter IV. The second cycle of reviewing the implementation of the Convention was conducted in 2019, where the executive summary of the results of the review was published in 2021. However, the full report has not been published to date on the official page of the United Nations Office on Drugs and Crime (UNODC) or the official page of the Palestinian Anti-Corruption Commission (PACC).

The purpose of this report is to assess the extent to which the State of Palestine carried out its obligations under Chapters II and V of the Convention, including legislative and practical issues, as well as to provide remarks on gaps in implementation in the Palestinian reality.

Chapter II: Preventive Measures

First: Preventive Anti-Corruption Policies and Practices

In the absence of a national committee to oversee the reform process, comprised of public figures who have the trust and respect of Palestinian citizens, as well as integrity, impartiality, independence, and experience, the executive authority "the Presidency and Government" continued to issue reform decisions and plans in various fields without involving citizen representatives or civil society organizations, and without a community discussion that would help determine national priorities for the reform process.

The Palestinian Government launched the National Development Plan (Public Policies) 2021-2023 (NDP) in 2021, which included various general policies in a variety of disciplines. The plan's tenth policy, titled "promoting integrity, accountability, transparency, and combating corruption," prioritized enabling citizens to access public information through the government's desire to enact an effective law that guarantees citizens' right to access information. In addition to assisting the State Audit and Administrative Control Bureau's (SAACB) key role in exposing misuse of public funds and inefficient spending, as well as strengthening and enhancing the capacities of internal control units in government institutions.

Additionally, the Palestinian Government's Civil Service National Strategic Plan for 2021-2023 was launched in 2022. One of the strategy's goals is to modernize the legislative system for the public service sector and improve oversight over it through continuous development of legislation and regulations. The foregoing is intended to increase legal awareness, enhance commitment to the laws and ethics of public service, and maximize oversight of the Civil Service Law's application and enforcement.

Second: Preventive Anti-Corruption Body or Bodies

A. Palestinian Anti-Corruption Commission

The Palestinian Anti-Corruption Commission (PACC) is regarded as the body in charge of combating corruption. PACC was established in accordance with the Anti-Corruption Law No. (1) of 2005 and its amendments, and it has legal personality as well as independent financial and administrative independence, with its own budget within the State's general budget. Furthermore, it possesses the legal capacity to carry out all legal acts required to attain its goals. The Law specifies how PACC's head is appointed, the nature of the immunity enjoyed by the Commission's employees, the powers assigned to the Commission, and the agencies that complement its work, which are represented by the Anti-Corruption Prosecution and the Corruption Crimes Court.

The PACC worked to develop and launch the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022, which had four axes: prevention, social participation, law enforcement, and international cooperation.

Although what has been stated above is in accordance with the provisions of the UNCAC, the following should be noted:

- As a cross-sectoral plan, the PACC was unable to acquire the President's approval or the Government's commitment to implement its provisions, resulting in weak commitment to it and its implementation on the ground.
- Non-inclusion of anti-corruption plans derived from the National Cross-Sectoral Strategy for Integrity and Anti-Corruption in sectoral plans or operational work plans of ministries and public institutions to ensure that funding and work force assigned to implementation are met.

Though the Committee has independence, it should be noted that:

- Revocation of the Legislative Council's approval of the power to appoint the head of the PACC and making the appointment by the President of the State based on the recommendation of the Council of Ministers is regarded as a matter that would jeopardize the Commission's independence.
- The qualifications that must be met by the head of the Commission stipulated in the Anti-Corruption Law are lenient, which may allow for the appointment of people who lack competence and specialized experience in the Commission's sphere of operation, allowing senior powerful officials to avoid punishment.

B. Other oversight institutions

In addition to the Anti-Corruption Commission, some bodies or institutions were established that are concerned with promoting integrity and preventing corruption, in accordance with the provisions of the Basic Law and some laws in force in Palestine, as the Law granted them some supervisory powers. The State Audit and Administrative Control Bureau, internal oversight committees, internal audit and inspection departments, the General Complaints Department, the Accountant General, and the judicial inspection departments in both the High Judicial Council (HJC) and the Public Prosecution are examples of these institutions. If any of the preceding authorities discovers an instance of corruption while conducting audit oversight, they will refer the matter to the competent authorities, who will initiate the procedures assigned to them under the law.

Third: Public Sector

The framework regulating civil service and public office in the State of Palestine is Civil Service Law No. (4) of 1998 and its amendments. The Civil Service Law specifies appointment mechanisms and procedures through local newspaper advertisements and written and oral competitions. The law also outlines the procedures for promotions, career advancement, outposting, transfer, secondments, disciplinary penalties, salaries, incentives, vacations, and so on.

The year 2022 saw the enactment of the Civil Servants Bonus Payment Regulation No. (21) of 2022. This Regulation specified the controls and foundations for granting job bonuses and required the head of each government department to form a committee from among the higher-ranking employees to examine the distinguished work for which those who perform it are entitled to job bonuses and to make recommendations to the head of the government department to take the appropriate decision. Furthermore, the system stated that a grievances committee would be formed to consider complaints and grievances on the awarding of job bonuses. The Regulation also addressed the classification and categories of rewards, as well as other specific procedures for awarding them.

However, the following is noted regarding job appointments¹:

- The political authority in the West Bank and the ruling one in the Gaza Strip continue to strengthen their control over the main public authorities, subjecting their decisions to the political authority's interests, and strengthening their control over decision-making centers in state institutions. The proceeding is carried out through filling political and decision-making positions in the management of public affairs with supporters of the ruling authority to ensure control over civil, security, financial, judicial and legislative matters.
- The continuation of numerous cases of senior positions being filled, including promotions and transfers, as recommended by influential people and supported by the General Intelligence and Preventive Security Services. This included appointments in the civil public sector and security institutions without adhering to the principles of equality, equal opportunity, and merit among citizens, and without clarifying the conditions for filling these positions in both the West Bank and the Gaza Strip.
- The continued extension of some employees after they have reached the legal retirement age in order to ensure that loyalists remain in senior positions, which is not always in the public interest and is often illegal.
- The President continues to exercise the authority to appoint senior officials for senior civil and security positions, contrary to the provisions of Article (69) of the Basic Law, which grants this authority to the Council of Ministers rather than the President.
- Expansion of the president's authority to appoint boards of directors, as a review of presidential decrees from 2019 to 2022 revealed that the president appointed thirty-one (31) boards of directors for public institutions, either directly or indirectly.

Fourth: Occupation of Public Office

The provisions of the amended Palestinian Basic Law of 2003 affirm citizens' right to hold public positions and jobs based on equal opportunities.

However, it is noted in the practical aspect:

- Failure to follow what the law stipulated in terms of appointing holders of senior/private positions, including the placement and selection mechanisms, which provided a wide range of discretionary authority for the decision maker in the appointment process. It also opens the way for these positions to be filled without adhering to objective, professional rules based on equality and equal opportunities, which is considered an appropriate entry point for the spread of corruption.
- Postponing Legislative Council elections indefinitely- after the President called for them- due to Israeli Occupation Forces preventing legislative elections in Jerusalem.
- During 2022, elections for local authority councils were held in the West Bank; however, not in the Gaza Strip due to Hamas's refusal to hold them and linking the process of holding elections to demands of a political nature far from the requirements of the electoral process. Furthermore, Hamas used its powers as a ruling authority to dismiss some existing councils and to implement a policy of appointment rather than election in the management of local councils. The appointments were made to serve purely partisan interests rather than the public interest.

¹ The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption, Ramallah-Palestine. Pp. 17-20.

Fifth: Funding Electoral Processes

Article (68) of the General Elections Law No. (1) of 2007 addressed the issue of sources of funding for electoral campaigns, stating that it is prohibited to receive funds for electoral campaign purposes from any foreign or external non-Palestinian source, either directly or indirectly. The same article also required every electoral list or candidate who ran in the elections to submit a detailed statement of all sources of funding and expenditures during the campaign, and the Central Elections Commission (CEC) could request that a legal auditor audit these declarations. Additionally, article (69) of the General Elections Law No. (1) of 2007 also specified the maximum permitted expenditure for advertising for presidential candidacy or electoral lists, which was limited to one million dollars. The Local Authority Council Elections Law requires candidate lists to provide the CEC with a detailed financial statement showing the costs of the electoral campaign, sources of funding, and aspects of disbursement within one month of the end of the elections. The CEC has the option of having these declarations audited by a legal auditor.

In practice, however, the following is noted:

- The absence of an integrated institutional system concerned with overseeing and supervising electoral campaigns in light of the CEC's limited oversight role on campaign financing, as the Commission's role is limited to receiving financial reports from candidates and electoral lists with the option of requesting that they be audited by a legal auditor. Furthermore, the Election Law did not assign the committee a role in inquiring and investigating violations related to financing and spending on campaigns.
- There is a legislative gap on financing parties due to the lack of a parties' law, due to the specificity of the work of the resistance factions and the connection of their funding sources to secrecy considering that we are a country under occupation.

Sixth: Conflict of Interest

Many Palestinian laws have addressed the issue of conflict of interest sparingly. Conflict of interest is defined in the Amended Anti-Corruption Law No. (1) of 2005 as "a situation or position in which the objectivity and independence of an employee's decision are affected by a personal, material, or moral interest that concerns him/her personally or one of his/her relatives or close friends, or when his/her performance of the public job is affected by direct or indirect personal considerations, or by his/her knowledge of information related to the decision."

In implementation of the provisions of the Anti-Corruption Law, the Palestinian Council of Ministers issued the Disclosure of Conflict of Interest Regulation on 1/27/2020. The Regulation specified the categories subject to its provisions as well as the obligations imposed by it. Furthermore, it required each institution to form a committee that would review and study the disclosure contained in the form submitted by the subject.

In practice, the compliance of political officials with the provisions of the Regulation for Disclosing Conflicts of Interest, gift acceptance, and financial disclosure in Palestine remains limited²:

- In comparison to the Anti-Corruption Law No. (1) of 2005 and its amendments, the Conflict of Interest

² The Coalition for Integrity and Accountability-AMAN, 2023. Report on Compliance of Political Officials in Palestine with Regulations on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure. Palestine, pp. 5-6

Regulation excluded many categories subject to the Anti-Corruption Law's provisions, including the President of the State, his advisors, heads of institutions affiliated with the Presidency, the Prime Minister, governors, and members of the diplomatic corps, without explaining the reasoning behind such exclusion. This indicates that there has been no serious follow-up on government agencies' commitment to keep these records and the formation of these committees by the Council of Ministers.

- With the exception of the guideline for implementing the Disclosure of Conflict of Interest Regulation, the Anti-Corruption Commission has not issued the necessary instructions to implement the Regulation.

Seventh: Codes of Conduct of Public Officials


Many codes of conduct have been issued in Palestine in order to achieve harmonization with the provisions of the Convention. These include the following: The Code of Conduct for Civil Servants, the Code of Judicial Conduct, the Codes of Conduct for Security Services, the Code of Conduct for Employees of the State Audit and Administrative Control Bureau, the Code of Conduct for Employees of the Palestinian Anti-Corruption Commission, the Code of Corporate Governance, and, most recently, the Code of Conduct for Local Council's Employees. It is worth mentioning that there is no record of disciplinary actions taken against Code rule violators.

Eight: Reporting Cases of Corruption

- The Anti-Corruption Law No. (1) of 2005 included many provisions related to the protection of whistleblowers of corruption, as the second paragraph of Article (18) stipulated that "the Commission shall ensure that bona fide witnesses, experts, and whistleblowers of corruption crimes are provided with legal, functional and personal protection, and that the procedures and measures of their protection shall be defined according to a system prepared by the Commission and issued by the Council of Ministers." Additionally, according to Article (19) of the same Law, «1. Every civil servant who becomes aware of a corruption crime must notify the Commission. 2. The report submitted by the employee in accordance with paragraph (1) above may not be used to justify any disciplinary action against him/her or any measures that would jeopardize his/her job status.» Finally, Article (22) of the Law emphasizes the confidentiality of submitted complaints, which serves as a form of whistleblower protection, as it states, «The declarations stipulated in this Law and the procedures taken to investigate and examine complaints submitted regarding corruption are among the secrets that may not be disclosed, except by a decision of the competent court.» The Council of Ministers issued Regulation No. (7) of 2019 on the Protection of Whistleblowers, Witnesses, Informants, and Experts in Corruption Cases, as well as their Relatives and Persons Closely Related to Them, in order to carry out the provisions of the Anti-Corruption Law. Furthermore, the Commission developed a manual for complaints and reports of corruption crimes in 2021. The Commission also created a form for requesting protection, which is available on the Commission's website, where the applicant for protection can fill out this form and submit it to the Commission electronically.

Ninth: Public Procurement

In 2014, Decree Law No. (8) of 2014 was issued with the goal of strengthening the principle of fair competition, encouraging suppliers and contractors to participate in public procurement procedures, providing equal opportunities without discrimination, and providing fair and equal treatment to all bidders. The Decree Law established the «High Council for Public Procurement Policies» to oversee public procurement operations, government tenders and bids, and other public procurement carried out by official bodies, as well as to develop and implement national public procurement policies, improve performance, and assess the effectiveness of the Public Procurement Policy.



There has been an improvement in the work of the public procurement system in 2021, as Standard Bidding Documents for contracts and tenders approved and adopted by the Council of Ministers were published on the Unified National Portal for Public Procurement (shiraa.gov.ps). Furthermore, government institutions and local councils committed to publishing procurement processes on the Unified National Portal, which contributed to enhancing the transparency of public procurement in the West Bank.

The Council established the Dispute Review Unit, which operates under the powers granted to it by the Procurement Law since 2021. The Council publishes on its website the grievances received by the Unit and the actions taken in response to each grievance. In 2022, the Council of Ministers approved the National Strategy for Capacity and Professionalism Development in Public Procurement in Palestine.


Despite the development in the public procurement system, the following is noted:

- The government has not completed integrating all entities (government responsibility centers and local councils) into the Unified Public Procurement Portal. The e-procurement strategy, which will improve the transparency and integrity of government institutions and local councils' public procurement processes, has also not been completed.
- The High Council for Public Procurement Policies continues to face some persistent challenges from previous years, such as the irregular transmission of Council of Ministers' bid decisions, to ensure that data related to public procurement is collected in the High Council for Public Procurement Policies' Unified Portal.
- Although the High Council for Public Procurement Policies has published the blacklist and the names of the companies on it for the year 2022 on its website, it is not clear the extent of the commitment not to involve these companies in procurement processes indirectly through a third party.

Tenth: Management of Public Finances

The Government is in charge of managing public funds and has designated the Ministry of Finance as the primary tool for dealing with financial matters, including collecting direct and indirect taxes and fees, spending them, accounting for them, and preparing budgets for submission to the Legislative Council for approval. Furthermore, the Government issues the regulations, bylaws, and instructions that govern financial work. The Palestinian Authority has enacted a number of laws to govern the management of public funds, estimate expenditures and revenues, and oversee all types of disbursement operations. Among these laws are the General Budget Law No. (7) of 1998, the Palestinian Authority's Annual General Budget Law, and the Financial Regulations of Palestinian Authority Institutions for 2018. The Palestinian government approved the Sectoral Strategy for Managing Public Funds 2021-2023 in 2021.

In practice, the Civil Society Team for Enhancing Public Budget Transparency's semi-annual report referred to several observations on the 2022 budget. One of the observations was that the Ministry of Finance did not comply with the international standards required to achieve public budget transparency to a large extent, as the MoF only committed to publishing three (3) documents out of the eight (8) that must be published, bearing in mind that publication requires specific criteria for published data. Some of the criteria include the comprehensiveness and quality of published data, adherence to publication dates, and ease of access to data. In addition, the final account for 2020 was not published on time, and the budget for 2022 was not approved by the Legislative Council due



to its dissolution. Furthermore, the General Budget Law for the year 2022 was issued on March 31, 2022, three months after the start of the year, without citizens being informed with it and without discussing it with representatives of civil society organizations to determine budget-spending priorities. The budget was later published in brief without any detailed provisions clarifying responsibility center allocations, which constituted a violation of the constitutional and legal rules governing the regulations of preparing, approving, and implementing the general budget, weakening civil society organizations' ability to analyze and audit data and impeding their accountability mechanisms. The State Audit and Administrative Control Bureau confirmed reservations in its reports regarding the majority of the final account reports that it reviewed; however, the accountability process is stalled in its fundamental constitutional aspect, which is entrusted to the Legislative Council, due to the dissolution of the Legislative Council and the failure to hold new elections.

Eleventh: Public Reporting

Providing a database and information is a basic condition for the success of any anti-corruption operation, due to the advance information it provides about management procedures. The National Development Plan (NDP) 2021-2023, within the framework of General Policy No. (10), which came under the title "Promoting Integrity, Accountability, Transparency, and Combating Corruption," indicated that the government would work to develop an effective law that guarantees citizens' right to access information,³ but this law has not yet been enacted.

On the other hand, it can be said that there is a slight improvement in the publication of public institutions' reports despite their weak content, which are still dominated by stating achievement without linking it to the tasks according to the set plans. Most institutions and security services have continued not to publish their annual reports on their respective websites, with the exception of the Palestinian Police, which publishes statistics about its work.

The government's insistence on not to pass a law on the right to access information and its refusal to publish concession agreements, the most recent of which was the concession agreement signed with Sorouh Energy Company to produce renewable energy from solid waste in Zahrat Al-Fanjan, and the true owner of the company was not disclosed. Despite the government's openness policy, it has ceased to publish the Council of Ministers' decisions on its website since 2017, and after each ministerial meeting, the government is content with publishing a brief news story about the decisions taken at the meeting.

Twelfth: The Judicial Authority

The legal framework for the judicial authority and the Public Prosecution is established in the amended Palestinian Basic Law of 2003. The Law established the principle of independence in a constitutional text, as Article (97) of it stipulates, "The judicial authority is independent, and is assumed by courts of all types and levels, and the law determines the method of its formation and powers, and issues its rulings according to the law." Furthermore, Article (100) of the Basic Law stipulates, "A high Judicial Council shall be established and the law shall specify the method of its formation, its powers, and the rules for its conduct of work." The Basic Law also addressed some general principles such as the publicity of the trial and the implementation of judicial rulings.

³ The National Development Plan (NDP) 2021-2023. P.62

In 2011, the Corruption Crimes Court was established, and a permanent panel of full-time judges was appointed to the Court in 2012. The Constitutional Court was also established by Presidential Decree No. (75) of 2016, which was issued on March 31, 2016. However, it is noted, in the Constitutional Court's formation, that there are no specific legal criteria for selection from among the nominated persons who meet the qualifications for appointment, affecting the Court's independence. Especially since the first appointment of the president and members of the Court is made by a decision of the head of state based on the recommendation of the Court's general assembly, which opens the way for the executive authority to intervene. The Court's judges can also be removed - in accordance with the Court's law amendment - in the circumstances determined by the law, opening the way to influence the independence of the Constitutional Court's judges and thus influence their decisions and rulings. In addition to the Constitutional Court's lack of financial independence, which allows for interference and pressure from the executive authority on the court, there is additionally no code of conduct for the court's judges.

At the level of the Public Prosecution, the Attorney General is appointed by a decision issued by the President in accordance with Article (107) of the Basic Law. The formation of the Public Prosecution, the conditions for appointing its members, and its jurisdiction in accordance with the law are all specified in Article (108) of the Basic Law. As a result, Judicial Authority Law No. (1) of 2000 was enacted, regulating all matters of the judiciary, including the Public Prosecution, in terms of appointment, promotion, outposting, secondment, court types, and many other matters.


Articles 1 and 2 of the law came to confirm the issue of independence once more. In order to implement the clause on the independence of this important body, the Judicial Authority Law states in Article (3) that the judicial authority must be financially independent. It also specifies that the HJC drafts the budget and refers it to the Minister of Justice to carry out the legal requirements in accordance with the provisions of the Budget Regulation Law and the Council is in charge of overseeing its implementation.

The ruling political level interferes with judicial authority decisions, particularly judicial authority entrusted with oversight of executive authority decisions.

In this context, results of the opinion poll, conducted in 2022 by AMAN on the state of corruption and combating it in Palestine, showed that 68 percent of respondents believe that corruption exists in the Judicial Authority (80 percent in the West Bank; 50 percent in the Gaza Strip). This reflects the negative perception of the state of the judiciary authority.

Thirteenth: Prevention of Corruption in the Private Sector

It should be noted that, despite the State of Palestine's 2014 accession to the United Nations Convention against Corruption (UNCAC), the harmonization of Palestinian legislation, particularly the Anti-Corruption Law No. (1) of 2005, with the requirements of the Convention, particularly in terms of criminalizing corruption in the private sector, was incomplete and unbalanced with the harmonization that was achieved in terms of criminalizing acts of corruption in the public sector. Bribery was not criminalized in the private sector, and criminalizing property embezzlement in the private sector through the Penal Code's crime of mistrust is inconsistent with the considerations and strictness that the Convention seeks in prosecuting corruption crimes.



Although the Anti-Corruption Law does not apply to private sector companies, Decree Law No. (42) of 2021 on Companies included provisions similar to those contained in the Anti-Corruption Law, and prohibited the practice of many acts that constitute an infringement on the company's funds or a suspected conflict of interest. The Decree Law, on the other hand, represented a retreat in terms of disclosure of the true owners and beneficiaries of companies, as disclosure was limited to the company's authorized representatives, members of the board of directors, and its director.


On the other hand, the Palestinian Capital Market Authority (PCMA) stated in its 2021 annual report that the Authority worked during the year 2021 to complete the rebuilding and development of the Code of Corporate Governance issued in 2009, particularly with regard to disclosure and risk management, as well as the roles of the board of directors and executive management. In 2021, the PCMA also issued several circulars to increase the efficiency and capability of companies to confront the risks of money laundering and terrorist financing, as well as adopt a risk-based approach to detecting suspicious transactions.

In practice, it is noted that the current legislation does not criminalize bribery and embezzlement in the private sector, and attention must be paid to the importance of filling this void in accordance with what the UNCAN stipulates regarding the criminalization of bribery in the private sector, due to its impact on combating and reducing the spread of corruption. However, it should be noted that the absence of a number of laws, such as a law on competition and anti-monopoly, a law on public concessions, and a public debt law, creates a legislative vacuum whose problems are reflected in the environment of integrity, transparency, and accountability in the private sector.

Similarly, concessions to private sector companies continue to be granted in Palestine in the absence of a comprehensive legal framework, owing to the lack of a general law regulating the principles and rules for granting concessions in the management and operation of vital service facilities that have been privatized for management or operation. The lack of a law governing concessions and preventing monopolies has weakened the supervisory role of organized bodies in general. Because the government does not operate under an approved and published general policy that can be relied on to privatize services, regulatory oversight bodies are weak in monitoring service providers, and the executive authority continues to play the role of supervision, oversight, and, on occasion, implementation. Furthermore, many public shareholding companies that manage public facilities still lack a binding system for disclosing conflicts of interest to their shareholders when they arise.

Civil Society Participation

Law No. 1 of 2000 Concerning Charitable Associations and Civil Society Organizations is the legal framework that governs the work of civil society institutions and non-governmental organizations, whose presence is deemed necessary in any society. The number of registered local civil society organizations in the West Bank and Gaza Strip has reached approximately 3,000. However, institutions specialized in preserving public money, enhancing integrity, spreading transparency, oversight and accountability regarding public affairs management and combating and prosecuting corruption remain limited. A number of civil society organizations took the initiative to create coalitions in collaboration and coordination with AMAN, the most prominent of which were the Civil Society Team for Enhancing Public Budget Transparency, and the Civil Forum to Promote Good Governance in the Security Sector.



In 2022, there were ongoing attempts in the West Bank to limit the scope of community work through drafting laws aimed at diminishing civil institutions' participatory role in establishing national priorities and community oversight. Attempts to issue regulation organizing the non-profit sector, legal frameworks, and a licensing system for media institutions are examples of such. Furthermore, in 2022, the governing authority in the Gaza Strip imposed restrictive measures on the activities of civil society organizations and peaceful gatherings by imposing a request for a permit or notification to the Ministry of Interior (Police Service/Institutions' Investigation Department), specifying the nature and reasons for the activity several days before the date of it.

In 2022, the Palestinian government also continued drafting resolutions on laws and surrounding them with a wall of secrecy, without any consultations or community discussion by the various parties and partners from the private and civil sectors. Additionally, the Government Action Follow-up Committee unilaterally published the Strategic Framework document for 2022-2024 and the Development Plan for 2022-2024 for the southern governorates, without engaging the civil society organizations.

Anti-Money Laundering Measures

Decree-Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing was passed in 2022. This Decree Law's provisions are in many ways consistent with UNCAC, and it includes a set of provisions necessary to combat money laundering. Many regulations and instructions have been issued in order to combat the crime of money laundering and Terrorism financing, including Regulation No. (1) of 2023, which specifies the authorities in charge of supervising financial institutions, designated non-financial businesses and professions, and non-profit organizations in order to combat money laundering and Terrorism financing. Other issuances were the Supervision System for Merchants and Jewellers of Precious Metals and Gemstones to Combat Money Laundering and Terrorism Financing Crimes No. (5) of 2021, Instructions No. (4) of 2022 related to Anti-Money Laundering and Combating Terrorism Financing for Financial Institutions, Instructions No. (3) of 2022 on Combating Money Laundering and Terrorism Financing Concerning Designated Non-Financial Businesses and Professions, Guidelines No. (1) Related to the Politically Exposed Person (PEPS), and Instructions No. (1) of 2016 on the Disclosure of Currencies, Bonds, E-money, Precious Stones or Metals When Crossing the Borders into the State, in addition to Instructions No. (3) of 2016 on Anti-Money Laundering and Counter-Terrorism Financing Measures for the Importing of Used Car from outside Palestine.

Likewise, Palestine Monetary Authority (PMA)⁴ has issued many instructions and circulars aimed at combating money laundering operations. Among those instructions and circulars is the Anti-Money Laundering and Combating Terrorism Financing Procedures Guide for Banks, Instructions No. (9) of 2022 on Issuance and Receipt of Remittances, and Instructions No. (18) of 2021 on the Function of Combating Money Laundering and Terrorism Financing.

The Capital Market Authority (CMA) has also taken numerous measures to combat money laundering operations, including a circular directed to CMA-regulated entities (the Palestine Stock Exchange, securities companies, insurance companies, and financial leasing companies) on the examination of control and oversight systems to ensure their effectiveness in combating money laundering and terrorism financing. In addition to the instructions related to the application of the principle of disclosure

⁴ Official website of Palestine Monetary Authority (PMA). <http://www.pma.ps/>

policies, as all workers in entities under the Authority's oversight, particularly those in high positions such as general managers and members of boards of directors, must disclose all financial transactions of themselves and their first-degree relatives, and that all of these transactions are subject to scrutiny.

Chapter V: Asset Recovery

It can be stated that the State of Palestine continues to face many obstacles in the legislative and executive fields, particularly in the field of concluding bilateral agreements and accession to international conventions in the field of international judicial cooperation, whether in terms of recovering assets resulting from committing crimes, executing sentences, or extraditing criminals. Nonetheless, the State of Palestine made significant efforts in this area, as evidenced by the following:

- **Verification of the identity of persons depositing funds and auditing of financial accounts**

In accordance with the provisions of Article (52/1) of the UNCAC, each State Party shall take such measures as may be necessary to require financial institutions to verify the identity of customers and to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts. In addition to numerous instructions and circulars issued by the PMA in this field, such as Article (10) of Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing, which required financial institutions to take due diligence measures for all customers, natural or legal.

- **Organizing the legal framework for politically exposed persons (PEPS)**

The National Committee for Anti-Money Laundering and Countering Terrorism Financing (NCAML/CTF) issued Instructions No. (1) of 2018 on Politically Exposed Persons. The instructions define politically exposed persons as any person along with their family, relatives, and associates, who is or has been entrusted with prominent public functions or political positions in Palestine or abroad, heads of charitable institutions, bodies or associations and NGOs or authorities of the State of Palestine or of any other foreign state and heads and representatives of international organizations, and heads of State-Owned Enterprises.

- **The founding of the National Committee for Anti-Money Laundering and Countering Terrorism Financing (NCAML/CTF)**

The NCAML/CTF was established pursuant to Article (29) of Decree Law No. (39) of 2022 and its amendments on Anti-Money Laundering and Terrorism Financing as the authority that was vested with powers and competencies under the terms of Articles (30 and 31) of the Decree Law.

- **The formation of the Financial Follow-up Unit**

The Financial Follow-up Unit was established as an independent entity by Decree Law No. (20) of 2015 and its amendments on Anti-Money Laundering and Terrorism Financing. This Unit's mission is to combat money laundering and terrorism financing, protect the national economy from the negative effects of these two crimes, and raise the efficiency of anti-money laundering and terrorism financing systems and procedures in Palestine, as well as activate local cooperation frameworks with all relevant authorities. The unit strives to put into action the goals set by the National Committee on Anti-Money Laundering and Terrorism Financing, which develops policies to combat these two crimes at the local and international levels.



- **Prohibiting the establishment of banks that lack a physical presence**

Examining the legislation in force in the Palestinian territories reveals that it is harmonized with what is stated in the aforementioned Article (52/4) of the UNCAC, as well as what is stated in Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing, as Article (7) prohibits the establishment or operation of a shell bank in the country. This Article also prohibited financial institutions from initiating or continuing business relationships or operations with shell banks, as well as from initiating or continuing correspondent banking business, operations, or any other business relationships with shell banks, or from permitting them to make use of their accounts. The same Article also obliged financial institutions to verify that responding institutions do not permit shell banks to access their accounts. According to Article (59) of the same Decree Law, anyone who intentionally violates the provisions of this Article will face imprisonment for no less than three months and no more than two years, or a fine of no less than (5000) five thousand Jordanian dinars and no more than (50,000) fifty thousand Jordanian dinars or its equivalent in legally circulated currency, or both penalties.

- **Accession to international conventions, membership in international organizations, and conclusion of international agreements and memorandums of understanding**

The State of Palestine has made many modest efforts in this field, including:

- Accession to international conventions: Palestine acceded to the United Nations Convention against Corruption (UNCAC) in 2014, the United Nations Convention against Transnational Organized Crime in 2015, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 2018.

- Membership in international organizations: The State of Palestine joined the International Criminal Police Organization (INTERPOL) on 9/27/2017, allowing Palestine to pursue some fugitives from justice, if the country in which they are located is a member of Interpol. The State of Palestine is also required to hold accountable, arrest and prosecute any Palestinian who is a fugitive from justice and is accused of a crime he committed in another INTERPOL member country.

- Signing memorandums of understanding

The Anti-Corruption Commission continued to sign memorandums of understanding at the international and Arab levels in order to exchange experiences and strengthen anti-corruption preventive mechanisms.

► 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 April 2, 2014. The Convention took effect in May 2014. Accession to the UNCAC gives rise to a set of obligations, including harmonization 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. Therefore, the provisions of the UNCAC have not been binding on relevant persons in line with the constitutional and procedural requirements of the operative legal framework.

The national anti-corruption legal framework includes provisions in a number of laws, the most important of which are: the Anti-Corruption Law, the Criminal Procedures Law, the Anti-Money Laundering and Terrorism Financing Law, in addition to the Penal Code No. (16) of 1960 in force in the West Bank and the two Penal Laws No. (69) of 1953 and No. (74) of 1936 applied in the Gaza Strip. Courts are divided into regular, shari'a, military and administrative courts. Furthermore, Palestine has established specialized courts and prosecution offices, most notably the Anti-Corruption Prosecution, the Corruption Crimes Court, and the Palestinian Anti-Corruption Commission (PACC).

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. Implementation by the State of Palestine of Chapter III and Chapter IV of the UNCAC was reviewed by Micronesia and Oman. The State of Palestine completed the review successfully, and the full report and the executive summary were published on the websites of both the United Nations and the PACC. The second phase of the review of the implementation of the Convention was completed in 2019 by the states of Malaysia and Burkina Faso, and the executive summary of the results of the review was published in 2021. However, the full report has not been published⁵ to date on the website of the United Nations Office on Drugs and Crime or the website of the PACC.

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.⁶ 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 report adopts 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, and annual reports of relevant public institutions.

⁵ https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/14-18_June_2021/CAC-COSP-IRG-II-2-1-ADD.23/CAC_COSP_IRG_II_2_1_ADD.23_A.pdf

⁶ In 2018, AMAN prepared a report to examine the extent of Palestine's compliance with Chapters II and V. To view, please visit the link below: https://www.aman-palestine.org/cached_uploads/download/migrated-files/itemfiles/a5c50ad5cd6a083980b93a40bfb93b85.pdf

► 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).

In 2021, the Palestinian government adopted and approved the National Development Plan (General Policies) 2021-2023, which featured a number of general policies in several disciplines. The tenth policy in the plan was titled “promoting integrity, accountability, transparency, and combating corruption.” This policy prioritized enabling citizens to access public information through government’s efforts to develop an effective law that guarantees citizens’ right to access information, as well as the State Audit and Administrative Control Bureau’s pivotal role in exposing the misuse of public funds and inefficient expenditure. In addition to enhancing and strengthening, the capacity of internal control units in government institutions.

Aside from the foregoing, PACC has worked to prepare launch the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022. This strategy contained four axes: (prevention, community participation, law enforcement, and international cooperation). It was prepared following several extensive meetings with various governmental, civil and private bodies, which resulted in the formation of work teams in the strategy’s four axes to determine the list of national priorities in the field of enhancing integrity and combating corruption. A regional workshop was also held in which international and national experts and specialists participated, along with representatives of the private sector in Palestine and Jordan, in addition to holding several other local workshops with the aim of taking final comments and recommendations on the draft strategy before its final launch.

- The process of monitoring and following up on the reality of implementing the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022 revealed the PACC’s inability to obtain the president’s approval or the government’s commitment to implementing its provisions as a cross-sectoral plan. The aforementioned emphasized the urgent need for the government’s commitment to implementing it and harmonizing the national anti-corruption strategy and plans. Taking into account the challenges associated with the reality and nature of political corruption, as a result of the environment associated with the regime’s central control and exclusivity in areas of governance in the last three years. As the government monopolized the legislative power and the power to manage resources and public affairs and weakened the independence of the judiciary authority in monitoring the political power, which weakened the integrity of governance and strengthened manifestations of political corruption, despite the issuance of various reform plans and agendas, particularly during the past two years.

- The government has yet to address the “Strategy to Strengthen Integrity and Anti-Corruption” and its plan as a cross-sectoral plan for which the government is accountable, as well as for requiring official parties to implement the necessary interventions to achieve their respective goals.

- Anti-corruption plans resulting from the National Cross-Sectoral Strategy to Promote Integrity and Anti-Corruption should be integrated into sectoral plans or operational action plans of ministries and public institutions to ensure that funding and staff charged with implementation needs are met.
- The executive authority “the presidency and the government” continued to issue decisions and reform plans in various fields without involving citizen representatives or civil society organizations, and without a community discussion that would help determine national priorities for the reform process, or contribute to national policy-making, which demonstrated the lack of a real will to commit to implement them.
- The absence of a national committee to oversee the reform process, comprised of public figures who have the trust and respect of Palestinian citizens, as well as integrity, impartiality, independence, and experience, build reform plans that are applicable, and address structural imbalances in accordance with Palestinian national needs. This necessitates monitoring the progress of the financial and administrative reform agenda in the civil and security sectors, particularly public finance management, security, the civil service, and Palestine Pension Agency.⁷

Preventive Anti-Corruption Body or Bodies

Each State Party shall ensure the existence of a body that is responsible for preventing and combating 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 knowl-edge on the prevention of corruption."

(Article 6 of the UNCAC)

The Palestinian Anti-Corruption Commission (PACC) is the official body responsible for combating corruption; however, it is not the only one. Rather, additional supervisory institutions join in this, each with its own set of powers, and these entities will be addressed as follows:

a) The Palestinian Anti-Corruption Commission (PACC)

The PACC was established in accordance with the Anti-Corruption Law No. (1) of 2005. As an administratively and financially independent body. It has its own budget within the general budget of the state and the legal ability to carry out all legal acts required to achieve its objectives. The law stipulates how the Palestinian Anti-Corruption Commission's head appointed, the nature of the immunity enjoyed by its employees, the powers assigned to it, and the agencies that complement the Commission's work, represented by the Anti-Corruption Prosecution and the Corruption Crimes Court⁸.

The role of the PACC in preventing and combating corruption can be summarized as follows:

First: Launching the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022

In 2020, the PACC announced the preparation and launch of the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022. This strategy contained four axes: (prevention, community involvement, law enforcement, and international cooperation).

⁷ The Coalition for Integrity and Accountability-AMAN. 2022. Fifteenth Annual Report on the State of Integrity and Combating Corruption in Palestine. Ramallah-Palestine. P.14

⁸ See Articles (3, 7, 8) of the Amended Anti-Corruption Law No. (1) of 2005.

Second: Receiving complaints and reports in corruption cases for the year 2022

- The number of complaints and reports received by the PACC during the year 2022 reached a total of 879 complaints and reports, of which 40 did not fall within the Commission's jurisdiction.
- Suspicions of corruption crimes received by the PACC during the year 2022 ranged between abuse of power, forgery, nepotism, favoritism, embezzlement, bribery, failure to disclose conflicts of interest, negligence in performing public office duties, investments, illicit gain, abuse of credit, and money laundering.

Third: Financial disclosure declarations

- The Palestinian Anti-Corruption Law was consistent with the trends called for by the United Nations Convention and the Arab Anti-Corruption Convention, in terms of subjecting public employees to submitting a financial disclosure declaration. Article (16/1) of the Anti-Corruption Law subjected senior officials in the state and all employees and workers in the entities subject to the provisions of the Anti-Corruption Law, those with financial powers or the right to sign, members of the tenders, procurement, sales, inventory, disposal, rents, and quota committees, those working in granting licenses and concessions, examiners, observers, warehouse keepers, and those working in financial affairs, to submit financial disclosure declarations.

- In light of the amendments brought by Decree Law No. (37) of 2018 amending the Anti-Corruption Law No. (1) of 2005, all employees are no longer required to submit a financial disclosure statement to the Commission. Rather, it has become limited to civilian employees who hold the rank of director or higher, members of the security services who hold the rank of lieutenant colonel or higher, in addition to all employees and workers in entities subject to the provisions of the Anti-Corruption Law who have financial powers or the right to sign. In addition to members of the bidding, procurement, sales, inventory, disposal, rent, and quota committees, and those working in granting licenses and concessions, examiners, observers, warehouse keepers and financial personnel.

- During the year 2021, the PACC reviewed (38) financial disclosures belonging to (25) people in connection with the Commission's complaints, reports, and investigations. (12) financial disclosures were investigated in response to a complaint, and (20) financial disclosures were investigated in response to a report¹⁰.

- **The following are noted on the procedures related to financial disclosure¹⁰:**

- The Basic Law adopts the principle of confidentiality of financial disclosures for senior officials, contrary to best practices today.
- There is an issue with the financial disclosures submitted by the President, Prime Minister, ministers, members of the Legislative Council, judges, and members of the Public Prosecution. As the legal texts under which they are required to submit their financial disclosures do not stipulate the submission of financial disclosures periodically, or when there is a change in sources of income, or after termination of employment, as stipulated by the Anti-Corruption Law to which public officials are subject.
- The financial disclosure form does not specify whether it is a first-time declaration, a periodic declaration, an end-of-service declaration, or a supplementary declaration due to a change in the

¹⁰ Anti-Corruption Commission Annual Report 2021. P. 43

¹¹ The Coalition for Integrity and Accountability-AMAN, 2023. Compliance of Political Officials in Palestine with Regulations on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure. Palestine. P.6

taxpayer's income. The declaration also excluded a definition of each item of stated payables, such as what is meant by moveable and immovable properties, real estate, cash, bank accounts, stocks, securities, and debts. These concepts are not always evident to all taxpayers. The disclosure also focuses on material payables and ignores the taxpayer's moral rights, which can be a significant source of income and have a high monetary value, such as copyrights and patents, even if a general clause about any other sources of income is included in the form.

- The Palestinian form for financial disclosure is paper, which means that it is distributed and delivered by hand by the PACC, imposing a significant burden on the Commission and necessitating additional resources for preservation and storage, making reviewing and auditing these declarations extremely difficult. The foregoing necessitating automating this form, which will make it easier for the Commission not only to distribute and receive disclosure statements, but also to analyze, audit, preserve, and store them.

- Despite the fact that the Anti-Corruption Law was amended in 2018, allowing the PACC to conduct an examination of financial disclosures without the need for court permission, the Commission did not implement a mechanism for random examination of financial disclosures on the ground due to technical obstacles.

Fourth: In the field of awareness- raising

a) Preparing studies and manuals

The Commission has worked on preparing many studies related to integrity and governance measures in a number of institutions in accordance with the National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022, specifically the aspect related to activating oversight tools and structures in institutions through the method of analyzing corruption risks in entities subject to the Commission's oversight. These institutions include The Ministry of Justice, the Ministry of Awqaf and Religious Affairs, the Supply and Equipment Authority, and local councils. The Commission also worked on preparing a manual for complaints and reports that clarifies the Commission's mechanism for dealing with and following up on complaints and reports from the moment they are received until they are referred to the competent authorities. The Commission also contributed to preparing the Palestinian curriculum for integrity and transparency training in the security sector in cooperation with the Ministry of Interior and the State Audit and Administrative Control Bureau. Additionally, the Commission organized a specialized workshop on preparing the National Integrity Document, which limits the possibility of corruption occurring at the various stages of the procurement process, with the participation of representatives of government institutions, the private sector, and civil society¹².

b) Training and awareness-raising

Within the framework of raising awareness of the Anti-Corruption Law No. (1) of 2005 and its supporting regulations, the Commission implemented many trainings in which trainees from various governmental, private and civil sectors participated. Moreover, the Commission prepared and implemented a training of trainers (ToT) program in cooperation with the Ministry of Education on issues of promoting integrity and combating corruption. The Commission also worked to produce (19) visual materials and two radio broadcasts about the Anti-Corruption Law and its supporting regulations, in addition to holding many television and radio interviews in cooperation with the media within the framework of raising awareness of promoting integrity and combating corruption¹³.

¹² Palestinian Anti-Corruption Commission Annual Report 2021. Pp. 16-22

¹³ Ibid. Pp. 22-24

Fifth: The independence and effectiveness of the PACC

- Article (3/1) of the amended Anti-Corruption Law of 2005 stipulates that the PACC enjoys juridical personality as well as administrative and financial independence.

- AMAN's opinion poll conducted in 2022 indicated that although the percentage of those who believe in the independence of the agencies charged with combating corruption in the West Bank has doubled in 2022 compared to the results of polls in the past five years. Half of the citizens polled are not convinced of the effectiveness and adequacy of the efforts of agencies in charge of combating corruption in the West Bank, and they continue to doubt its independence, and believe that there is interference by influential political parties. Citizens believe that the parties most interfering with the work of the agencies in charge of combating corruption are, according to the opinions polled, as follows: (1) The Prime Minister and the Ministers, (2) Office of the President, (3) security services, (4) governors and mayors, (5) party leaders¹⁴.

- Article (3/3) of the Anti-Corruption Law stipulates that the head of the Anti-Corruption Commission shall be appointed by the President of the State based on the recommendation of the Council of Ministers.

- Cancelling the Legislative Council's approval of the Commission to appoint the head of the PACC and appointing him by the President of the State based on the suggestion of the Council of Ministers is regarded as a matter that would jeopardize the Commission's independence. Furthermore, the conditions that must be met by the Commission's head of stipulated in the Anti-Corruption Law are loose, opening up the possibility of appointing people who lack competence and specialized experience in the field of the Commission's work and allowing senior influential officials to avoid punishment. The preceding demands that the Legislative Council - once convened - become responsible for appointing the head of the Commission in a manner that improves its independence in exercising its powers, and the necessity of stipulating detailed conditions, specifications, and experience that must be met by whoever is appointed as head of the Commission¹⁵.

- Article (7) of the Anti-Corruption Law stipulates that the head of the Commission and its employees enjoy immunity from all actions they carry out related to the implementation of their duties. The Commission also has sufficient independence to appoint its human cadres, and submits its annual reports to both the President of the National Authority and the Council of Ministers. The Commission's work is also subject to internal oversight by the head of the Commission and the Commission's Oversight Unit, and it is subject externally to the oversight of the State Audit and Administrative Control Bureau.

b) Other oversight institutions

In addition to the Palestinian Anti-Corruption Commission (PACC), and in accordance with the provisions of the Basic Law and some laws in force in Palestine, some bodies or institutions were established that are concerned with promoting integrity and preventing corruption. The law granted these institutions some supervisory powers, such as the State Audit and Administrative Control Bureau, internal control units, internal auditing and inspection departments, Directorate General of Complaints, and the General Accountant.

14 The Coalition for Integrity and Accountability (AMAN), 2022. The Public Opinion Poll on Corruption and Anti-Corruption Efforts. Ramallah-Palestine. P.12.

15 The Coalition for Integrity and Accountability-AMAN, 2021. The Palestinian Experience: Governance Integrity & Combating Political Corruption. Ramallah-Palestine. P.23.

1. The State Audit and Administrative Control Bureau (SAACB)

The amended Basic Law of 2003 establishes the State Audit and Administrative Control Bureau (SAACB) to oversee all branches of authority, including the collection of public revenues and their expenditure within the budgetary constraints. In implementation of this, the Financial and Administrative Control Bureau Law No. (15) of 2004 was issued, the text of Article (23) of which states: "The Bureau shall aim to ensure the soundness of the work, and the financial and administrative stability of the Palestinian National Authority, in the three authorities, legislative and juridical authority, and the executive authority, and to disclose all kinds of the financial and administrative deviation. Including cases of abuse of public function, affirmation that public performance is applying to the provisions of the law, regulations, rules, resolutions and instructions according to them, affirmation that it is exercised in the best way with the minimum cost."

According to the law, the Bureau has legal personality, financial and administrative independence, and full legal authority to carry out all acts and activities necessary to complete the responsibilities for which it was established and has a separate budget from the state's general budget. As a result, this text is relatively consistent with the text of Article (6/2) of the UNCAC, in terms of the need for the Bureau to enjoy administrative and financial independence.

At the level of human resources, the law, in Article 16, grants the president of the Bureau the authority to appoint executive directors, inspectors, consultants, experts, technicians, and employees in accordance with the provisions of this Law and the Civil Service Law. The president of the Bureau, his deputy, the director, and the Bureau's employees enjoy immunity for all actions they perform related to the implementation of their duties, in accordance with what is stated in Article (11) of the law.

The bodies subject to the Bureau's oversight include; all civil and military institutions of the PNA and local councils, public and civil bodies and institutions, trade unions, associations and federations of all types and levels and entities considered within their jurisdiction, institutions and companies that are owned by the PNA or contribute to it or receive assistance from it or from donors to the it, and institutions and companies licensed to use or manage a public facility.¹⁶ Moreover, the departments, institutions and bodies of the Palestine Liberation Organization, embassies, representative offices and diplomatic missions are also subject to the provisions of the Law of the SAACB, and the Bureau undertakes oversight over them based on an assignment from the President of the State of Palestine/ Chairman of the Executive Committee of the Palestine Liberation Organization¹⁷.

As for other powers, the Law granted the Bureau, in addition to the general powers related to financial and administrative control over all institutions subject to it, some full powers in some matters, including¹⁸:

- Audit accounts, documents, and requests in any department subject to his control.
- Review of all reports, information and data received from employees, and investigation reports into violations affecting financial and administrative matters. The Bureau may request all the information and clarifications needed to be reviewed from all government departments related to their work.

16 Article (31) of the Audit and Administrative Control Bureau Law No. (15) of 2004.

17 Articles (1-2) of Presidential Decree No. (5) of 2017 regarding the subjection of the departments, institutions and bodies of the Palestine Liberation Organization, embassies, representative offices and diplomatic missions to the provisions of the Audit and Administrative Control Bureau Law.

18 Articles 24-30 of the Audit and Administrative Control Bureau Law No. (15) of 2004.

- Request, view, or cease any files, data, papers, documents, or information, or obtain copies of them, from the party where these files, data, papers, documents, or information are located, including parties that consider all of this to be confidential, as well as summoning those the Bureau wants to hear their statements.
- Requesting that the competent authorities suspend or temporarily remove the employee from his job responsibilities if it becomes obvious that his/her presence at work is detrimental to the investigation procedures.
- The President has ordered the early retirement of several presidents of the State Audit and Administrative Control Bureau.
- The dissolution of the Legislative Council and the absence of general elections reduces the impact of the Bureau's activity and the immunity and independence of its president.

The results of AMAN's opinion poll conducted in 2022 indicated that there is a consensus among citizens in the West Bank and Gaza Strip regarding the low level of independence and effectiveness of the bodies that follow up on corruption cases. These bodies include the Palestinian Anti-Corruption Commission, the Audit and Administrative Control Bureau in the West Bank, the Anti-Corruption Prosecution, and the Audit and Administrative Control in the Gaza Strip¹⁹.

2. Internal control units and internal auditing and inspection departments

In 2010, the Council of Ministers promulgated the Financial Regulation of Ministries and Public Institutions. The Council of Ministers also enacted Decision No. (130) of 2006 on the establishment of internal control units at ministries. Internal observers shall perform the following tasks:

- 1) Oversight of department expenditures, whether funded from the general budget or grants, regardless of the source of funding.
- 2) Ensure the accuracy of monthly expenditure and revenue reports before submitting them to the competent authorities in the Ministry.
- 3) Ensure the accuracy of revenues before submitting them to the Ministry.
- 4) Monitor bank settlements of revenue, expenditure and grant accounts.
- 5) Participate in the evaluation of grants and in-kind assistance for the purposes of entering into the chain of custody.
- 6) Ensure the accuracy and integrity of fixed custody records.
- 7) Abrupt inspection of funds, custody, and fixed assets in departments.
- 8) Participate in inventory and disposal committees.
- 9) Coordinate with the financial departments in positions of responsibility to follow up on the comments of the State Audit and Administrative Control Bureau and answer its inquiries.
- 10) Provide advice and consultancy to positions of responsibility if requested.

The Regulation also addressed the issue of inspection committee appointment, stating that the Minister shall appoint inspection and inventory committees during January of each year to carry out functions that the Minister identifies. These functions include inspecting and inventorying funds, warehouses, stamps, and financial papers. Committees must submit their reports to the Minister of Finance, along with a copy to the competent Minister, no later than ten days from the date of assignment, in order for them to be evaluated and assessed for any deviation.

¹⁹ The Coalition for Integrity and Accountability (AMAN), 2022. The Public Opinion Poll on Corruption and Anti-Corruption Efforts. Palestine. P.12.

3. Directorate General of Complaints

Statistics obtained by AMAN for the year 2021 show that the total number of complaints received by government institutions decreased by nearly half compared to the year 2020, and returned to roughly the same number in 2019. However, the statistics do not show an explanation of the reasons for the referral or dismissal of complaints, nor an analysis of complaints and policies that can be deduced to end problems caused by some policies or procedures²⁰.

The Fourth Annual Report on Complaints provided a detailed review of challenges and obstacles to every civilian institution and security agency as a step forward to develop an effective accountability system. However, requirements for activating complaint systems still need additional efforts, especially in the security agencies that were covered by a wide range of recommendations in the Fourth Annual Report on Complaints. Many recommendations were made in the 2020 report, the most important of which was for all government departments to commit to using the central computerised system for complaints, entering complaints received into the system, developing relationships with partners in civil society institutions regarding complaints submitted to them, and updating the government services guide. The preceding is intended to improve the process of linking complaints to services provided in order to identify flaws and deficiencies, and to serve as an input into the process of improving government services provided to citizens and government performance²¹.

- It is noted that the statistics included in complaints reports are deaf statistics, as these statistics do not show an explanation of the reasons for the referral or dismissal of complaints, nor an analysis of complaints and policies that can be deduced to end problems caused by some policies or procedures of government work.

- In 2022, the Council of Ministers did not issue or discuss the Annual Complaints Report for the Year 2021, demonstrating the Council refraining from using one of the accountability systems and tools in public institutions that enable it to understand the deficiencies in public work in order to implement policy reforms that improve the performance of public institutions²².

4. Judicial Inspection Department at the High Judicial Council (HJC) and the Public Prosecution

a. Judicial Inspection Department at the High Judicial Council (HJC)

The Judicial Inspection Department in the High Judicial Council is specialized in following up complaints related to the judiciary. The functions, powers and procedures of the Judicial Inspection Department are in accordance with the Judicial Authority Law and its amendments No. (1) of 2002, and Judicial Inspection Regulation No. (12) of 2021 which can be summarized by the following:

- Inspecting the work of judges at least once a year.
- Inspecting the work of probationary and apprentice judges at least twice a year.
- Evaluating the performance of judges.
- Investigating complaints and follow-ups assigned to the inspectors by the head of the department.
- Monitoring the proper application of the Code of Judicial Conduct by judges.

During 2021, the Judicial Inspection Department received (49) complaints referred by the Chief Justice of the High Judicial Council, of which (35) were adjudicated. The complaints were handled in a variety of ways, including referral to the Disciplinary Council, reprimanding, warning, referring the complainant to the Public Prosecution, and recommending the holding of several workshops²³.

20 The Coalition for Integrity and Accountability (AMAN), 2022. The Public Opinion Poll on Corruption and Anti-Corruption Efforts. Palestine. P. 34

21 The Eighth Annual Report on Complaints in Government Departments for the Year 2020. p. 88.

22 The Coalition for Integrity and Accountability-AMAN, 2022. The Palestinian Experience: Governance Integrity & Combating Political Corruption. Palestine. Pp. 34-35

23 The Annual Report of the High Judicial Council for the year 2021. P. 48.

Note that the annual report of the HJC for the year 2022 has not been issued yet.

b. Judicial Inspection Department of the Public Prosecution

The Judicial Inspection Department of the Attorney General's Office is responsible for receiving and investigating complaints filed with the Attorney General. The number of complaints considered by the Judicial Inspection Department in 2020 totalled (35) complaints, of which (29) were submitted by individuals, (5) by institutions, and one by individuals collectively, and the number of complaints related to members of the Public Prosecution reached (23) complaints. In 2020, the Public Prosecution office also completed work on preparing the judicial inspection manual, as well as computerizing and developing the procedures in place at the Judicial Inspection Department²⁴.

5. Accountant General

The Palestinian Authority, specifically the Ministry of Finance created the position of the Accountant General in accordance with the amended Decree Law No. (3) of 2008, amending Law of the Organisation of the General Budget and Public Finances No. (7) of 1998. According to the text of Article (3) of the Decree Law, the Accountant General is entrusted with certain powers, as the Accountant General is the responsible body in the Ministry of Finance for the following:

- Financial planning and projection of cash flows.
- Cash management and organizing banking arrangements for the National Authority.
- Managing, organizing, monitoring and controlling various sources of funding.
- Managing banking accounts of the National Authority.
- Managing the financial assets of the National Authority (financial and fixed).
- Public debt management.
- Grants and loans management.
- Implementing the general budget of the National Authority.
- Accounting and reporting.

Moreover, Article (139) of the Financial Regulations of the National Authority for the year 2010 in the draft Financial Regulations for Institutions and Ministries in 2014 states, "The Accountant General shall appoint financial auditors in each department who are responsible for monitoring the implementation of the provisions of this statute and the relevant laws and regulations."

Public Sector

"Each State Party shall organize its public sector 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 adequate pay scales, sufficient education and training programs, and adequate procedures for the selection and training of individuals for public positions."

(Article 7/1 of the UNCAC)

The framework regulating civil service and public employment in the Palestinian Authority is in accordance with Civil Service Law No. (4) of 1998, and the Law Amending the Civil Service Law No. (4) of 2005, in addition to the bylaws and regulations issued pursuant thereto, including the executive regulations of Civil Service Law No. (45) of 2005, and the amended Executive Regulations No. (14) of 2008, in addition to many executive regulations that regulated bonuses, promotions, and appointments to some job categories and other matters related to public employment.

²⁴ The Eleventh Annual Report of the Public Prosecution for the year 2020. pp. 72-73.

The Civil Service Law defines appointment mechanisms and procedures through advertisement in local newspapers and written and oral competitions. The law also defines the mechanism for promotions and career progression, as well as assignment, transfer, secondment, powers, disciplinary penalties, salaries, incentives, vacations... and others.

First: Appointment mechanisms

The government sector employees' appointment mechanisms and procedures are governed by Civil Service Law No. (4) of 1998, its amendments, and the regulations issued in accordance with it. Article (14) states that only those who meet the qualifications for the position will be appointed as a civil servant and two functions cannot be combined. What we are concerned with in this report is clarifying the mechanism for appointment and application for a job vacancy, so we will refer to its procedures as stated in the Law:

1. Within two weeks of their vacancy, government departments publish in at least two daily newspapers an announcement of vacant positions for which appointment is made by decision of the competent authority. The announcement includes information about the position and the requirements for filling it, and the SAACB is notified.
2. In posts that 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. The names of those accepted to apply for the recruitment competitions are announced in two daily newspapers for at least two consecutive days, with the announcement including the date and location of the competition.
4. Appointments to functions shall be in accordance with order of precedence in the final order of the results of the examination. When the ranking is equal, the appointment shall go to the highest qualified followed by the most experienced. If the applicants are still equal in their qualifications and expertise, then 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 process shall begin within one month from the date of announcing the examination results²⁵.

The Civil Service Law also referred to employee selection committees in Article (26) thereof, whereby employee selection committees are formed for appointment to vacant positions in government departments from representatives of each of the concerned department and the General Personnel Council, if the executive regulations clarify this in detail.

Second: Promotion mechanisms

The Civil Service Law addressed the subject of public servant promotions in Article (43) and what follows, as the law stated that promotion could only take place based on a vacant grade in the approved budget, given that the employee has spent years of minimum retention in grade. The law further stated that promotion to the first grade requires an employee evaluation of "very good," and promotion to the remainder of the grades requires an employee evaluation of "good" or higher for

²⁵ Articles (19-22) of Civil Service Law No. (4) of 1998 and its amendments. These procedures relate to the mechanisms of appointment to a vacant position.

the previous three years of service. Promotion decisions, in the second and third grades, are made by the relevant department head, while promotion in the remaining grades is based on seniority. The law also addressed the timetable of the minimum years of service²⁶ and various issues related to promotions that are not covered here. Article (57) and what follows of the Civil Service Law addressed the subject of transfer, outposting, and secondment.

Third: Disciplinary penalties

The Civil Service Law addressed the issue of penalties in a number of articles, including Article (68), which stated that if an employee is proven to have violated the laws, regulations, instructions, and decisions in force in the civil service, or in their application, one of the disciplinary penalties stipulated in the law will be imposed on him/her. The Civil Service Law does not specify disciplinary offences specifically, but rather are mentioned as an example. In terms of disciplinary penalties, they are stated in the law as an exclusive and not an example. The imposition of disciplinary penalties on employees is governed by a set of principles, the most important of which are the legitimacy of the penalty and its proportionality to the violation, as well as the impermissibility of imposing multiple disciplinary penalties for a single disciplinary violation. Furthermore, the law defines a series of disciplinary assurances that, on the one hand, protect the rights of public employees while also ensuring that the administration does not inflict disciplinary punishment arbitrarily on the other.

Fourth: Job bonuses

The System of Granting Bonuses to Civil Servants No. (21) of 2022 was implemented in 2022. This system specified the controls and foundations for granting job bonuses, and required the head of each government department to form a committee from among the higher-level employees to study the distinguished work for which those who perform it are eligible for job bonuses, and make placements accordingly to the head of the government department to make the appropriate decision. Furthermore, a grievances committee was constituted to investigate complaints and grievances about the awarding of job bonuses. The system also covered the classification and types of bonuses, as well as other detailed procedures for awarding them.

- In the West Bank, the influential and exclusive political authority continued to strengthen its control over decision-making positions in state institutions by occupying political and decision-making positions in managing public affairs from supporters of the ruling authority to ensure control over decisions in civil, security, financial, judicial, and legislative affairs. According to the Official Gazette "Palestine Gazette" in 2022, top appointments included presidents of public universities, deputy ministers, judges, and general managers.
- Many incidents of high-ranking positions being filled, including promotions and transfers, that were recommended by prominent people and supported by the Intelligence and Preventive Security services, persist. This includes appointments in the civil public sector and security institutions that did not adhere to the principles of equality, equal opportunity, and merit among citizens, and that did not specify the standards for filling these positions in both the West Bank and the Gaza Strip.
- Appointments to senior positions in the West Bank, according to what was stated in the Official Gazette during the year 2022, are as follows:

²⁶ The Coalition for Integrity and Accountability-AMAN, 2015. Assessment of Compliance with the Preventive Measures of the UN Convention against Corruption. Ramallah-Palestine

Senior-level positions	Targeted number
Appointments in senior-level positions	35
Promotions to senior-level positions	17
Transfer to senior-level positions	14
Assignment to senior-level positions	1
Extension to senior-level positions	4

- Continued extension for some employees after they have passed the legal retirement age for ambassadors and chiefs of security services such as the Chief of Police, deputies of ministries such as the Ministry of Local Government and the Ministry of Interior, heads of the General Personnel Council and the State Audit and Administrative Control Bureau. The aforementioned aims that loyalists remain in high positions, not necessarily in accordance with the public interest and in most cases contrary to the law.

- The President continues to wield the authority to appoint senior officials to senior civil and security positions, contrary to the provisions of Article (69) of the Basic Law, which grants this authority to the Council of Ministers rather than the President.

- The president's authority to appoint boards of directors has expanded, as evidenced by a review of presidential decrees for the period 2019-2022, which revealed that the president has appointed (31) thirty-one boards of directors for public institutions. The President directly appointed or formed boards of directors for (15) fifteen institutions, while the boards of directors of (11) eleven other institutions were formed based on a recommendation from the Council of Ministers, and other parties recommended (5) five boards of directors. The institutions whose boards of directors were directly appointed by the President had varying degrees of reference. Some of them, such as the Higher Committee of Churches Affairs in Palestine and the Palestinian Satellite Company "PALSAT," refer back to the Palestine Liberation Organization (PLO). Others, such as the Khaled Al-Hassan Foundation for Cancer Treatment and Bone Marrow Transplant and the National Committee for the Listing of Terrorists and Terrorist Organizations, refer to the State of Palestine. On the other hand, there was a lack of clarity in the references of other institutions, such as the Higher Committee for Jerusalem, whose reference was concluded to belong to the PLO, and the Mu'in Bseiso Foundation, whose reference was determined to belong to the State of Palestine. The preceding is based on what was stated in the decrees to form these bodies in terms of budget and leadership. Others refer to charity organizations, such as Al-Maqasid Islamic charitable Society (Jerusalem). Not to mention the appointment of university boards such as the Al-Azhar University Board of Trustees in the Gaza Strip and Al-Najah University in the West Bank.

Holding public positions

"Each State Party shall take legislative and administrative measures to establish standards relating to nomination for public offices and the election of their occupants."

(Article 7/2 of the UNCAC)

National legislations affirm the framework governing nominations for public office and the election of their occupants, in addition to the provisions stated in the amended Palestinian Basic Law of 2003, which confirm the right to run for office and to hold public office on the principle of equality. In Chapter Two, the Basic Law addressed public rights and freedoms, as Article (26/4) stipulated that "Palestinians have the right to participate in political life as individuals and groups, and in particular they have the following rights: to hold public positions and jobs on the basis of equal opportunities". This article refers to the necessity of achieving equality and equal opportunities for all Palestinians to hold public positions and jobs. This comes at a time when the introduction to the article stressed using the word "in particular" this right, which makes any violation of this article a violation of the Basic Law and the principles of equality and equal opportunities and renders any administrative decision issued contrary to this article null and void.

According to the article's explicit text, the appointment of senior positions must be based on clear standards of equality and parity in their application. Aside from the requirement for objective, professional, and transparent rules for holding senior public positions, objection mechanisms, a grievances committee, and selection based on merit and eligibility are also required. The preceding is significant since the practical reality contradicts the framework and the hypothesis incorporated in the Basic Law, which is evident in the non-compliance with the legislation in senior appointments with exceptions or for the offspring and relatives of some officials.

On the practical side, in terms of determining the mechanisms of placement and selection, it is noted that there is a lack of adherence to what the law stipulates regarding the appointment of senior and special positions. In filling these positions, the executive authority uses the method of free and direct selection, which has given the decision-maker in the appointment process a wide range of discretionary authority. The aforementioned has created the opportunity for these positions to be filled without adhering to objective, professional rules based on equality and equal opportunities, which is regarded as an appropriate entry point for the spread of corruption, the emergence of manifestations of nepotism in filling them, and their use to ensure personal loyalties.

The following is noted regarding job appointments²⁷:

- The existing authority in the Gaza Strip maintains its grip on senior positions in the government system by instituting a centralised administrative policy through the Government Work Follow-up Committee, which has monopolised the power to appoint senior officials to important administrative positions. The committee followed a policy of rotating officials in the centre of governance and administration, the majority of whom are supporters of the political authority, and strengthened control over the main public authorities, subjecting their decisions to the political authority's interests. AMAN monitored the decisions to occupy senior positions in the Gaza Strip during the year 2022, and they were as follows:

²⁷ The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine. Pp. 17-20

Senior-level positions	Targeted number
Appointments in senior-level positions	2
Promotions to senior-level positions	130
Transfer to senior-level positions	80
Assignment to senior-level positions	18
Termination of senior-level positions	40

In addition to the Basic Law, the General Elections Law No. (1) of 2007 regulates the occupation of the positions of President of the State and the Legislative Council.

As for the election of local councils, Law No. (10) of 2005, its amending Law No. (12) of 2005, and Decree Law No. (8) of 2012 represent the legal framework regulating the election of local councils.

At the level of nomination and candidacy for public office, the following was noted:

- Failure to adhere to what the law stipulated for the appointment of holders of senior and special positions, including the placement and selection mechanisms, which allowed the decision maker in the appointment process a wide range of discretionary authority, and opened the way for these positions to be filled without adhering to objective, professional rules based on equality and equal opportunities, which is considered an appropriate entry point for the spread of Corruption, the emergence of nepotism in its employment, and its use to ensure personal loyalties.

- Palestinian President Mahmoud Abbas issued Decree No. (1) for 2021 on January 15, 2021, calling for presidential, legislative, and national assembly elections. The presidential decree called for legislative elections on May 22, 2021, and presidential elections on July 31, 2021. Provided, however, that the results of the Legislative Council elections are regarded as the first stage in the formation of the Palestinian National Council, and that the National Council is completed by August 31, 2021, in accordance with the Palestine Liberation Organization's Statute. Despite the fact that the Central Elections Committee had completed all of the necessary procedures to organize the elections, the Israeli occupation authorities refused to hold the elections in Jerusalem. The proceeding prompted President Mahmoud Abbas to issue another decree on April 30, 2021, postponing the general legislative, presidential, and national council elections until the conditions for conducting them in all Palestinian territories, particularly Jerusalem, were met.

- The Palestinian Council of Ministers issued Decision No. (18/126) for the year 2021 on September 27, 2021, calling for local council elections "the second stage" to be held on September 26, 2022, in (66) local bodies. These are the (55) local councils classified as (A) and (B) in the West Bank and Gaza. In addition to the (11) local bodies classified as (C) in Gaza. There were local bodies where elections were not held due to a lack of competing lists or agreement on a recommended list. On March 26, 2022, elections were held in (50) local bodies in the West Bank, with approximately 54% of those eligible to vote voting, and one complete list ran in (23) local bodies that were elected by acclamation. Due to a lack of nominations or incomplete lists, no elections were held in (29) local bodies. Hamas refused to hold local elections in the Gaza Strip and stipulated that they be held only in exchange of meeting political demands, prompting the Council of Ministers to issue a decision on January 17, 2022, postponing the holding of local elections in the southern governorates (Gaza Strip) until appropriate conditions were met²⁸.

²⁸ The Coalition for Integrity and Accountability-AMAN, 2022. Report on Observation of the Second Phase of Local Elections. Ramallah-Palestine.

- In addition to not holding elections for local bodies in the Gaza Strip from 2005 to the present, the Hamas movement used its governing authority to dismiss some existing councils and implement a policy of appointment rather than elections in the management of local bodies. The appointments were made to serve purely partisan interests rather than the public interest, resulting in the absence of the principle of public involvement, a real overthrow of the principle of equal opportunities, and a state of conflict of interests, which is regarded as an important entry point for committing corruption in its various forms²⁹.

Funding Electoral Processes

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

- Article (68) of the General Elections Law No. (1) of 2007 addressed the issue of funding sources for electoral campaigns, stating that it is prohibited to receive any funds for the purposes of the electoral campaign from any foreign or external non-Palestinian source, either directly or indirectly. The same article also requires every electoral list or candidate who ran in the elections to submit a detailed statement of all funding sources and expenditures made during the campaign. Furthermore, the law provided the Central Elections Committee the authority to request that these statements be audited by a certified auditor. Article (69) of the same law set the permissible spending limits for campaigning for the position of president or electoral lists at one million dollars³⁰.
- Returning to the Local Bodies Council Election Law No. (10) of 2005, specifically Article (32), it is noted that it has placed a restriction on the necessity of providing the Central Elections Committee within one month of the end of the elections with a detailed financial statement showing the costs of the electoral campaign, sources of funding, and aspects of disbursement. The Committee has the authority to request the audit of the statements by a certified auditor.
- In the same context, AMAN prepared a specialised report on the integrity of campaign funding and spending, concluding that there is a lack of an integrated institutional system concerned with monitoring and supervising electoral campaigns, given the Central Elections Commission's limited oversight role in campaign funding. The Committee's role is limited to receiving financial reports from candidates and electoral lists and requesting that they be audited by a legal auditor. Furthermore, the Election Law did not assign the Committee a role in investigating campaign funding and spending violations.
- On the legislative side, reforming the system of funding and spending on electoral campaigns necessitates a thorough examination of current legal texts in the direction of issuing an independent law for funding electoral campaigns in accordance with international standards, and adopting direct public funding as a source of funding, in accordance with the Palestinian National Authority's capabilities. In terms of application. Reforming the electoral campaigns' system of funding and spending necessitates the adoption of a code of conduct for funding electoral campaigns, and requires the committee to publish the reports it receives from candidates on the committee's official website, as well as provide information to voters about the sources of funding and their expenditures.

²⁹ A paper presented to the 2022 AMAN Annual Conference titled “The Impact of Appointment of Members and Heads of Local Bodies Councils on Political Integrity”, Pp. 4-5

³⁰ Article (69) of the General Elections Law No. (1) of 2007.

- Regarding the legal framework governing the funding of political parties in Palestine, it can be stated that there is an absence and a legislative gap due to the nature of the parties' work and the connection of their funding sources to secrecy, as we are a country under occupation.

Conflict of Interest

“Each State Party shall endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest, in terms of stipulating disclosure mechanisms, regulate the registration of conflict cases, and establishing appropriate penalties in the event of violation of this principle.”

(Article 7/4 of UNCAC)

- Conflict of interest was addressed sporadically in Palestinian laws. The Basic Law addressed this issue in Article (80), which relates to the procedures that some senior officials must follow in order to avoid conflicts of interest with regard to the prime minister and ministers. However, no regulations or instructions have been developed to help in the implementation and enforcement of this order. Furthermore, in Article (54/1), the Basic Law recognized conflict of interest in legislative authority members, stating, "a member of the Legislative Council may not exploit his membership in any private business, in any manner." In the same context, the Law on the Rights and Duties of Members of the Palestinian Legislative Council No. (10) of 2004 states that a member of the Legislative Council may not purchase, rent, lease, trade, or sell any of the State's properties, or enter into a contract with any of the State's properties, neither in his/her capacity as a contractor, supplier, or subcontractor³¹.


- In implementation of the provisions of the Anti-Corruption Law, the Palestinian Council of Ministers issued on January 27, 2020 the Disclosure of Conflict of Interest Regulation No. (1) of 2020. This regulation included the following:

- Subject to the provisions of the Regulation are ministers, heads of government departments, those subject to the Civil Service Law, heads of the security services, those subject to the Security Forces Service Law, heads and members of boards of directors and local bodies, employees of local bodies, unions and associations and those of the like, and employees of public institutions, and companies with state involvement.

- The Regulation's provisions seek to prevent conflicts of interest, control and identify cases of conflicts of interest, and how to deal with them, as well as ensure that any investments, funds, property, or benefits that lead to conflicts of interest are disclosed. Furthermore, it seeks to identify the mechanism used to disclose conflicts of interest in terms of the data and information included in the disclosure process according to the form, specify mechanisms for eliminating conflicts of interest, and hold the subject accountable if he or she fails to disclose.

- Everyone subject to the Regulation is obligated to refrain from engaging in any business or carrying out any activity that would create a direct or indirect conflict of personal interests on the one hand and job responsibilities or what is related to job position on the other hand. Additionally, to immediately withdraw from participating, in any way, in a procedure or decision that would lead to the emergence of a case of direct conflict of interest after it is proven by a decision of the competent official. Moreover, everyone subject to the Regulation is committed to impartiality and objectivity in performing work tasks without bias or preferential treatment of natural or legal persons

31 Article (4) of the Law on the Rights and Duties of Members of the Palestinian Legislative Council No. (10) of 2004.



in their dealings or in any way that harms reputation. In addition, to disclose every case that is expected to create a conflict of interest on the form designated for that purpose. Furthermore, refrain from divulging or using any information obtained in the course of carrying out the duties of the position, even after the termination of service, and not to participate in collecting financial donations or in-kind contributions to any party before obtaining the approvals of the employer, and in accordance with the provisions of the applicable legislation. Additionally, it prohibits accepting gifts or services from any party whenever it would place any obligation on them or have a direct or indirect impact on the objectivity and impartiality in carrying out job duties, or would influence decisions or may impose an obligation in return for accepting them, and not promote any product or service in any way or form, unless it forms part of the job duties.

- The Regulation required the formation of a committee of competent officials from each entity subject to the system's provisions to review and study the disclosure contained in the form submitted by the subject. The committee is composed of three employees from the top or first category or their equivalent, and it issues its recommendations by majority vote and submits them to the concerned official within fourteen (14) days of receiving the form. The recommendations range from either, stepping down immediately in the event of a direct conflict of interest or by removing the conflict situation within (7) days from the date of issuance of the competent official's decision, or the subject does not take any decision or action related to the task in question during this period in the event of an indirect conflict of interest, or keeping the situation as it is, in the absence of a conflict of interest.

• This was not lost on the Palestinian Civil Service Law No. (4) of 1998 and its amendments. Rather, the issue of conflict of interest and the need to consider it was addressed in Article (67), which prohibited combining two positions, or an employee exploiting his/her job for personal profit or gain, or accepting a gift, reward, grant, or commission in exchange for performing his/her work. This law, however, did not specify the establishment of a department or institution in charge of registering cases of conflict of interest, recording gifts and gratuities, or even reporting them. This role was supposed to be played by personnel affairs departments in the ministries established under the Civil Service Law, in collaboration with the General Personnel Council³².

• As for the Audit and Administrative Control Bureau Law No. (15) of 2004, it referred to the conflict of interest with regard to the head of the Bureau, his/her deputy, and the general director in explicit texts, as these texts prohibited any of them from assuming any other position.

• Decree Law No. (14) of 2014 relating to the Water Law also includes several provisions addressing conflicts of interest. Article (11) of the Decree Law prohibits employees of the Palestinian Water Authority from being a party to any of the Authority's contracts or from working on projects or works that derive any material profit or benefit from it, directly or indirectly. As well as Articles (22) and (28), which prohibit the Chairman of the Water Sector Regulatory Council's Board of Directors or any of its members or their relatives up to the second degree, or the Council's Executive Director or any of its employees from being a party to any of the Council's contracts, or to work in those projects or businesses and derive any material profit or benefit from them, either directly or indirectly, with the exception of the salaries and bonuses they receive from their job in the Council or in exchange for carrying out any of the tasks assigned to them in accordance with the provisions of the law and the regulations issued in accordance with them.

³² The Coalition for Integrity and Accountability-AMAN, 2015. Assessment of Compliance with the Preventive Measures. Ramallah-Palestine.

• In addition to the above, the Monetary Authority Law, Law on the encouragement of investment, the Banking Law, the Capital Market Authority Law, the Charitable Associations Law, the Public Procurement Law, and the Auditing Profession Law have all addressed this issue. The Local Bodies Law No. (1) of 1997, on the other hand, failed to address the issue of conflict of interest.

• The amended Anti-Corruption Law No. (1) of 2005 defines conflict of interest as “any situation by which the objectivity and independence of an employee’s decision is affected by a material or moral personal interest that personally concerns him/her or one of his/her relatives or close friends, or when his/her performance of the public office is affected by direct or indirect personal considerations, or with his knowledge of the information related to the decision.”

• A report prepared by the AMAN on the Compliance of Political Officials in Palestine with Regulations on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure in Palestine concluded the following³³:

- In comparison to the categories covered by the Anti-Corruption Law and its amendments No. (1) of 2005, the conflict of interest system excluded many of the Anti-Corruption Law’s provisions. These categories include: the head of state and his advisors, heads of institutions affiliated with the presidency, the prime minister, governors, and members of the diplomatic corps. It is unclear what the justifications are for exempting these categories from the application of the provisions of this Regulation, which fully anticipates them falling into conflicts of interest that necessitate disclosure. As these exceptions are not legally binding, they allow this segment to use them to shield themselves from accountability and provide them with impunity. When this occurs, it is considered political corruption because the regulation allows it and they are usually among the senior officials of the political authority.

- The Palestinian Anti-Corruption Commission’s conflict of interest disclosure form contains a significant flaw. The form seriously confuses the form’s purpose in disclosing the possibility of a previous conflict of interest case as a preventive measure against falling into any form of corruption, and the employee’s subsequent admission of falling into one of the cases that are considered a conflict of interest, which must be dealt with in this case as a corruption crime according to the form of the criminal incident.

- There are no accurate statistics on the formation of special committees mandated by the Disclosure of Conflict of Interest Regulation, and who formed these committees and who did not. The foregoing demonstrates a lack of serious follow-up on government entities’ commitments to keep these records and the formation of these committees by the Council of Ministers.

- The State Audit and Administrative Control Bureau audits cases of conflicts of interest based on a complaint or while carrying out audits conducted by the Bureau to date without relying on the provisions of the Disclosure of Conflict of Interest Regulation. Rather, it is based on the United Nations Convention against Corruption (UNCAC) and the relevant decisions of the Council of Ministers, which leads to poor implementation of the Regulation and adherence to its provisions.

- With the exception of the Handbook on the Disclosure of Conflict of Interest Regulation, the Anti-Corruption Commission has not issued the necessary instructions to implement the Regulation.

33 The Coalition for Integrity and Accountability-AMAN, 2023. Report on the Compliance of Political Officials in Palestine with Regulations on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure. Ramallah-Palestine. Pp. 5-6

- There are no legal provisions governing the transfer of senior officials from the public to private sectors, whether for ministers, Legislative Council members, senior public officials, or tax and customs officers, or the requirement to specify a period of transfer or the existence of an entity or body that undertakes supervision and follow-up in this field³⁴.

Codes of Conduct for Public Officials

“Each State Party shall take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials. Also, each State Party shall consider taking disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.”

(Article 8/ 3&6 of the UNCAC)

In the context of harmonization with what the provisions of the Convention, the following codes of conduct were issued in Palestine:

First: Code of Conduct and Ethics for the Civil Service:

- In October of 2012, the Council of Ministers issued the Code of Conduct and Ethics for the Civil Service³⁵. The Code's goal is to promote civil service ideals that will increase citizens' trust in government institutions. Following the approval of the Code of Conduct and Ethics for the Civil Service by the Council of Ministers in accordance with Decision No. (6) of 2012, the General Personnel Council, in collaboration with the governmental and private institutions that contributed to the Code's development, began forming a national committee to oversee its implementation. This committee worked to organize civil service training workshops for public employees at the Council's headquarters and in some government institutions.

- On December 21, 2020, the Council of Ministers issued Decision No. (4) of 2020 approving the Code of Conduct and Ethics for the Civil Service. This code places many obligations on the public employee related to anti-corruption efforts, including³⁶:

- The employee informs the competent authorities of any act of corruption that he/she becomes aware of while performing his/her job and cooperates with the competent authorities in administrative, financial and criminal investigation.
- It is prohibited for an employee to engage in any behavior that would lead to a direct or indirect conflict of interest, provided that it does not contradict the provisions of the Disclosure Conflict of Interest Regulation.
- It is prohibited for an employee to accept or request a gift offered by virtue of his/her position, whether directly or indirectly.
- The employee must inform the direct supervisor if offered a bribe in order to take the necessary action in accordance with the legislation in force.

34 The Coalition for Integrity and Accountability-AMAN, 2018. Updated Parallel Report on Palestine's implementation of Sustainable Development Goal 16 (SDG16). Ramallah-Palestine.

35 Council of Ministers Decision No. (04/23/14/V.Y/L.R) of 2012, issued on October 23, 2012.

36 See Articles (10-14) of the Code of Conduct and Ethics for the Civil Service No. (4) of 2020.

- Incorporating the Code into the 2021-2023 National Development Plan (NDP): This Plan includes a number of general policies that the government will endeavor to achieve, including General Policy No. (11) on enhancing the efficiency of public institutions.
- The Council of Ministers used a governmental approach to restrict the right to freedom of opinion and expression as a fundamental human right guaranteed by international charters and declarations, national constitutions and legislation. The Council of Ministers enacted Resolution No. (3) of 2021 on May 7, 2021, declaring Article (22) of Council of Ministers Resolution No. (4) of 2020 null and void. The previously existing Resolution No. (4) of 2020 provided for the following: "1. the employee has the right to express and publish his or her opinion verbally, in writing, or through other means of expression or art, subject to the provisions of applicable legislation. 2. When expressing an opinion, commenting, or engaging on social media platforms, the employee must make it clear that he or she represents his or her own viewpoint and does not represent the opinion of the government agency for which he or she works."
- Including the Code in the Sectoral Strategy for the Civil Service 2021-2023: The General Personnel Council was keen to include the activation of the Code of Conduct within the Sectoral Strategy for the Civil Service 2021-2023.

Second: Code of Judicial Conduct

The Transitional High Judicial Council announced the Code of Judicial Conduct for the Year 2020 on April 3, 2020, replacing the Code of Judicial Conduct for the Year 2006. This Code imposed numerous requirements on the judge, including judicial independence, litigation guarantees, judicial conduct, competence, and ability. This Code was revised in accordance with Resolution No. (2) of the Transitional High Judicial Council of 2022. The purpose of this amendment was to specify the uniform that judges must wear during court sessions. It prohibited the judge from blogging or sharing any personal information or photos, and obligated the judge to delete any content in his/her social media accounts that jeopardizes his prestige, dignity, independence and impartiality, or causes him to lose citizens' confidence in such a way that cannot be restored. Furthermore, this amendment also prohibits the judge from making statements, stating information or expressing opinions through various visual, audio or written media or websites without obtaining the prior approval of the Chief Justice of the High Judicial Council.

Third: Code of Conduct for Employees of Local Councils:

On August 7, 2023, the Council of Ministers approved a unified code of conduct for local councils, which was jointly prepared by representatives of local councils and the Palestinian Anti-Corruption Commission.

Fourth: Code of Conduct for Members of the Palestinian Security Forces:

On February 26, 2018, the Code of Ethics and General Code of Conduct for Members of the Security Forces was issued. It is a unified code for all members of the security services and is published on the website of the Ministry of Interior, which has collaborated with the security services to deliver training courses for its members on this Code.

Fifth: The Code of Conduct for Employees of the State Audit and Administrative Control Bureau:

The Bureau approved a specific code for the Bureau's employees titled "Code of Professional Conduct for the State Audit and Administrative Control Bureau," which was distributed among employees, and employees annually sign a special form titled "Annual Commitment Certificate." This Code is one of the references that the Bureau employs in promoting and evaluating its employees, as well as holding the Bureau's employees accountable for violating the provisions of the Code and launching the ideal employee award in the Bureau.

Sixth: Code of Conduct for Employees of Palestinian Anti-Corruption Commission

On July 7, 2022, the Head of the Anti-Corruption Commission issued the Code of Conduct and Ethics of Public Office for Anti-Corruption Commission Employees. This code established the code of conduct and ethics for public office that Commission employees must adhere to while performing their duties. The Code affirmed that an employee's failure to comply with the terms of the Code requires accountability and prosecution.

Seventh: Code of Conduct for the 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) published the Corporate Governance Guide for Banks in Palestine: Rules and Best Practices. However, in practice, private companies are not bound by governance laws, and there are no measurement indicators for corporate compliance with the application of these laws. The PCMA began applying the governance index to registered private companies, but has yet to publish the results because publishing is at the discretion of each company.

Reporting Cases of Corruption

"Each State Party shall also consider 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, in addition to taking measures to protect whistleblowers of corruption."

(Article 8/4 of the UNCAC)

The Anti-Corruption Law No. (1) of 2005 included many provisions related to the protection of whistleblowers of corruption, as the second paragraph of Article (18) stipulated that "the Commission shall ensure that bona fide witnesses, experts, and whistleblowers of corruption crimes are provided with legal, functional and personal protection, and that the procedures and measures of their protection shall be defined according to a system prepared by the Commission and issued by the Council of Ministers. Additionally, according to Article (19) of the same Law, "1. Every civil servant who becomes aware of a corruption crime must notify the Commission. 2. The report submitted by the employee in accordance with paragraph (1) above may not be used to justify any disciplinary action against him/her or any measures that would jeopardize his/her job status." Finally, Article (22) of the Law emphasizes the confidentiality of submitted complaints, which serves as a form of whistleblower protection, as it states: "The declarations stipulated in this Law and the procedures taken to investigate and examine complaints submitted regarding corruption are among the secrets that may not be disclosed, except by a decision of the competent court."

The Anti-Corruption Commission received 879 complaints and reports in 2022, of which the Commission rejected 40 for lack of jurisdiction, while the number of complaints and reports rounded from 2021 reached 689, bringing the total number of what was presented to the Commission and its specialized teams to 1,568 in 2022³⁷.

• In implementation of the provisions of the Anti-Corruption Law, the Council of Ministers issued Regulation No. (7) of 2019 on the Protection of Whistleblowers, Witnesses, Informants, and Experts in Corruption Cases, as well as their Relatives and Persons Closely Related to Them. The provisions of this Regulation are as follows:

- The provisions of the Regulation aim to encourage people to report corruption crimes, detect corruption crimes, and provide legal, job and personal protection to the person seeking protection.
- Protection under the Regulation is provided to the person seeking protection and his/her relatives up to the fourth degree, in addition to persons closely related to the person seeking protection.
- A unit shall be established in the Committee called the "Protection Unit" that reports to the head of the Commission and is managed by a head, and has a special budget within the Commission's budget. The Unit undertakes multiple tasks, the most important of which are: receiving protection requests referred by the Head of the Commission for examination, assessing the relevant risks and threats, determining the protection mechanisms and procedures that will be provided to the protection seeker whose request has been accepted according to the risk assessment for each case. Furthermore, receiving requests from people who wish to remain anonymous, whistleblowers and informants and examining them. Also, periodically re-evaluating the decisions to grant protection to the people to those issued one, concealing the data of protection requests that may lead to revealing the identity of the person seeking protection, replacing them with special codes, and submitting a recommendation to the Head to accept or reject the protection or non-disclosure on identities requests for decision making. Finally, notifying the Head immediately of any attack on any of the persons under protection or any of them being threatened, and referring the matter to the competent Anti-Corruption Prosecution to take the necessary measures to ensure their security and safety.
- The request for protection is submitted to the Commission's Head using the approved form, and it is then forwarded to the Unit's Director. The Protection Unit investigates the protection request on an urgent basis within (7) days of its submission and recommends to the Head whether to accept or reject the request, with reasons. The Head then issues a decision on the request to provide protection based on the recommendation within (48) hours, provided that the decision be justified.
- The types of protection included in the system are functional protection against every administrative decision that changes the legal or administrative position or diminishes rights, in addition to any action that damages status or reputation, or practices discrimination. The protection also includes personal protection, as the Unit provides personal protection for persons covered by the protection decision in cooperation with the police and the competent security forces, by protecting places of residence or providing accommodation places when necessary and taking measures to ensure safe movement, especially when attending trials and investigation sessions. Moreover, protecting homes, property, and workplaces, changing the residence or workplace, or both, temporarily or permanently, providing appropriate alternatives according to the surrounding conditions and circumstances, changing or monitoring phone numbers at the request of their owner in accordance

37 The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine. P. 39.

with applicable legislation, and providing an emergency phone number that works around the clock to receive requests. Additionally, using modern communication technologies to ensure safety in giving statements and testimonies, and hiding all information related to identity and personal data, and replacing that with non-personally identifiable symbols or nicknames. Finally, legal protection from criminal prosecution as a result of reporting or testifying to a corruption crime.

The total number of protection requests submitted to the Commission between 2015 and 2019 reached (35) prior to the approval of the whistleblower and witness protection system, while the Commission received 23 protection requests after the system was approved in 2020 alone. According to the most recent figures for 2021 (due to the failure to provide a report for 2022), the Commission received 42 requests. The proceeding leaves no doubt that the presence of a whistleblower and witness protection system has contributed to generating a sense of security for whistleblowers and witnesses in corruption cases, as well as strengthened the notion of promoting reporting corruption. These applications were distributed according to the gender of the applicant: (30) males and (12) females³⁸.

- During the year 2021, the PACC worked to prepare a guide for complaints and reports of corruption crimes and a form for requesting protection, which is published on its website. The protection seeker can fill out this form and send it electronically to the Commission.

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, inter alia, in preventing corruption. Such steps shall take into account some basic standards, such as procedures related to the distribution of information related to contracts, publication of the terms of the competition for tenders, and creating effective internal review systems.”

(Article 9/1 of the UNCAC)

- In 2014, Presidential Decree No. (8) of 2014 was issued, which aims to purchase supplies, works, and services at the best prices in a way that contributes to rationalizing expenditures, while maintaining quality assurance, promoting the principle of fair competition, encouraging participation in public procurement procedures on the part of suppliers and contractors, and providing, without discrimination, fair and equal treatment and opportunities to all bidders.

- Decree No. (8) of 2014 on the Public Procurement Law specified the legal framework for all public procurement operations, and Article (8) of the Decree established “The Higher Council for Public Procurement Policies”. The functions of the Council include supervising public procurement operations, government tenders and bids, and other public procurement carried out by official bodies. Drawing and preparing national policies for public procurement, improving performance, and evaluating the effectiveness of public procurement policy.

38 Palestinian Anti-Corruption Commission Annual Report for 2021, p. 44.

- According to the Decree, the Council is considered a political and regulatory body, and shall have corporate personality and independent financial liability with its own budget within the PNA general budget, and reports to the Council of Ministers. The effectiveness of implementing the Public Procurement Law depends on the Council's ability to carry out its role, as it is the cornerstone of the law³⁹.
- The work of the public procurement system improved in 2021, when the Council of Ministers approved and adopted the unified standard documents for contracts and tenders, which were published on the Unified Public Procurement Portal website (shiraa.gov.ps). Furthermore, the unified standard tender documents were approved and published, and government institutions and local councils committed to publishing purchasing operations on the Unified Portal website, which contributed enhance the transparency of public procurement in the West Bank.
- The Higher Council for Public Procurement Policies worked on developing the "Procedures Manual," which explains all of the procedures that must be followed from the beginning of the procurement process until it is completed. This Manual was made available on the Council's website. The Council also worked on a "Manual to the Dispute Review Unit," which defines different aspects of the Unit's formation and work operations. The Manual was also made available on the Council's website.
- The Council finalized the formation of the Dispute Review Unit, which commenced operations in 2021 with the powers granted to it under the provisions of the Procurement Law. The Council publishes on its website the grievances received by the Unit and the actions taken in response to each grievance.
- Reviewing the Council's website reveals a noticeable improvement in aspects related to the transparency of public procurement operations, as the Council publishes on its website the purchasing plans for some procuring entities that are provided to it. It also publishes the bids and requests for proposals submitted by the procuring entities and the referral decisions related to them. The Council also publishes framework agreements that procurement entities sign with service providers to meet their demands for a specific period.
- In 2022, the Council of Ministers approved the National Strategy for Capacity and Professionalism Development
- Despite the development in the public procurement system, the following is noted⁴⁰:
 - The government has not completed the integration of all entities (responsibility centres of government and local bodies) into the Unified Portal for Public Procurement. Moreover, the e-procurement strategy, which will enhance the transparency and integrity of public procurement processes for government institutions and local government bodies, has also not been completed.
 - The Higher Council for Public Procurement Policies continues to face challenges from previous years, such as the irregular transmission of Council of Ministers' tender decisions, to ensure the collection of data related to public procurement in the Council's Unified Portal.
 - Although the Higher Council for Public Procurement Policies published the blacklist and the names of the companies on it on its website for the year 2022, the degree of the commitment not to include these companies in purchasing operations indirectly through a third party is unclear.

39 Council of Ministers Resolution No. (17/137/2) dated 1/13/2017, Palestinian Gazette, No. 133.

40 The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine. P. 26

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 budget approval procedures, timely reporting of revenues and expenditures, a system of accounting and auditing standards, and effective systems of risk management and internal control.”

(Article 9/2 of UNCAC)

- The Ministry of Finance is the main government instrument for dealing with financial affairs, such as collecting, spending, and accounting for direct and indirect taxes and fees, preparing budgets for approval by the Council of Ministers, and issuing instructions that regulate financial work. The PNA has passed various legislations to oversee the management of public finances, estimate expenditures and income, and monitor all types of disbursement operations. These include the Palestinian Basic Law, which provides for preparing the PNA's public budget, Public Budget Law No. (7) of 1998, Law on the PA's Public Budget, PLC Standing Orders in relation to the mechanism for public budget approval, and the Financial Regulation of Ministries and Public Institutions for 2018⁴¹. The PA Ministry of Finance created the position of the Accountant General in accordance with the Decree Law No. (3) of 2008 Amending the Law on the Organization of the Public Budget No. (7) of 1998.
- As for the Financial Regulations of Ministries and Public Institutions No. (43) of 2005, it is a financial guide that regulates the financial and accounting foundations and rules, specializations and powers, and explains the bonds, documents, forms, accounting records, and the rules for book and record-keeping that ministries must adhere to. In addition to recording revenues and expenditures, and dealing with the supply and collection of revenues and cash-conservation, spending and disbursement rules, types of expenses, following standards and procedures, advances, managing cash assets, fiscal year-end close, and managing government debt.
- Article (11) of Public Debt Law No. (24) of 2005, which governs public debt management, authorizes the Minister of Finance to borrow for the benefit of the government, provided that each case of borrowing is brought to the Council of Ministers for approval. Article (39) of the Law specifies that external public debt arrangements must be presented to the Legislative Council for approval and published in the Official Gazette. Article (92) of the amended Basic Law of 2003 confirms the latest, stating, "public loans shall be concluded by law, and it is not possible to be associated with any project that results in spending sums from the public treasury for a future period, without the approval of the Legislative Council."

⁴¹ According to Public Budget Law No. (7) of 1998, the Public Budget Department prepares the annual budget proposal of line ministries and public institutions in the PA, including financing budget. Pursuant to Decree Law No. (3) of 2008 Amending the Law on the Organization 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 Organization of the Public Budget No. (7) of 1998, the following procedures are followed when the public budget is proposed:

- a. The Council of Ministers shall submit the draft law on general budget to the Legislative Council at least two months prior to the beginning of the fiscal year.
- b. The Legislative Council shall refer the draft law 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.
- c. The Legislative Council shall hold a special session to discuss the draft law on general budget in light of the Committee's report and recommendations, and shall pass the draft law together with the amendments prior to the commencement of the new fiscal year, or return it to the Council of Ministers within a maximum of one month from the date of its submission to it, accompanied by the Legislative Council's remarks for carrying out the required amendments. Afterwards, returning it to the Legislative Council within a maximum period of two weeks from the date of referral to obtain approval.
- d. The budget is voted on chapter by chapter.
- e. Without conflicting with the provisions of this law, it shall not be permissible to make transfers between the chapters of the budget without the approval of the Legislative Council.



• In 2021, the Palestinian government adopted the Sectoral Strategy for the Management of Public Finances 2021-2023. The Strategy's message is to manage public finances efficiently and effectively within an available financial and economic framework in accordance with international standards regulating the management of public finances. The Strategy's message referred to implementing an expenditure system that works efficiently, effectively and transparently providing the possibility of public accountability and oversight. The second strategic goal of the Strategy was to commit to transparent accounting systems that adhere to good international standards and are connected to an effective internal and external control and audit system, through several results and outputs, which are:

- Increasing transparency and credibility related to the process of preparing and documenting the general budget.
- Promoting transparency that allows citizens and concerned parties to participate in the process of preparing the general budget by timely issuing and publishing general budget reports.
- Completing the accumulation of incomplete final accounts.
- Access to a fair and strong procurement system built on a solid legislative foundation and institutional structure capable of establishing, monitoring, and evaluating procurement policies in order to promote fair and transparent competition.
- Improving the financial control environment by focusing on control that prevents financial risks, whether through internal control of the Ministry of Finance, or external control represented by the control programs supervised by the State Audit and Administrative Control Bureau.

• The semi-annual report prepared by the Civil Society Team for enhancing Public Budget Transparency indicated many remarks on the 2022 budget. The remarks included that the Ministry of Finance did not largely adhere to the international standards necessary to achieve public budget transparency, as it only committed to publishing (3) original documents out of (8) that must be published, noting that publication requires the existence of specific standards for the published data, including the comprehensiveness and quality of the published data, adherence to publication deadlines, and ease of access to the data, and in detail⁴²:

- The pre-budget statement was published on the Ministry of Finance website.
- The approved and adopted General Budget Law was published on the Ministry of Finance website in a very brief manner, without clarifying the detailed budgets of the centers of responsibility.
- Monthly reports were published on the Ministry of Finance website, but the dates specified for their publication were not adhered.
- The summary of the budget proposal was not published, nor was it presented and discussed with civil society representatives.
- The Citizen's Budget has not been published on the Ministry of Finance website.
- The semi-annual report for 2022 has not been published in accordance with the detailed requirements for its publication.
- The final account for the year 2020 has not been published. What has been published is the end-of-year report for the year 2020, which is a brief report that contains irrational numbers that do not reflect the performance, the goals that have been achieved, and the programs that have been implemented.

⁴² The Coalition for Integrity and Accountability-AMAN, 2022. Civil Team for enhancing Public Budget Transparency, Semi-Annual Report of the Public Budget 2022. Ramallah-Palestine. P. 6

- The audited report on the final account for the year 2020 has not been published, knowing that it must be issued and published within a period not exceeding (18) months from the end of the fiscal year, that is, within (6) months from the issuance of the final account.

The following notes can be included regarding the 2022 budget⁴³:

- The draft general budget was not approved by the Legislative Council due to its dissolution, and the President formally approved the budget instead of the Council.
- The General Budget Law for 2022 was issued on March 31, 2022, that is, three months after the beginning of the year, without citizens being informed of it or discussing it with representatives of civil society organizations to determine budget expenditure priorities, but rather to the exclusion of representatives of taxpayer citizens. It was later published in a short form, without any detailed provisions clarifying the allocations for responsibility centers. The proceeding constituted a violation of the constitutional and legal rules governing the rules of preparing, approving, and implementing the general budget, which weakened the ability of civil society organizations to analyze and audit data and hindered their accountability mechanisms.
- In the reports issued by it, the State Audit and Administrative Control Bureau confirmed its reservations regarding most of the final account reports.

Public Reporting

"Each State Party shall take appropriate measures to enhance transparency, accountability and public access to information about regulation, decision-making processes, public administration decisions, simple administrative procedures for public access to decision-making authorities, and the dissemination of relevant information. Also, each State Party shall take measures, within their capabilities, to encourage civil society institutions called to participate in preventing corruption, by raising awareness among the public about the concept of corruption and its various forms."

(Article 13/1 of the UNCAC)

Because of the advanced information it provides regarding management procedures, providing a database and information is a necessary prerequisite for the success of any anti-corruption operation. The NDP 2021-2023, under the framework of General Policy No. (10), titled "Promoting Integrity, Accountability, Transparency, and Combating Corruption" indicated the following: transparency entails complete clarity about the decision-making process, government procedures, the method of developing plans and policies, facilitating citizens' access to information and refraining from depriving them of it except in cases of national security. As a result, the government will work to establish an effective law that guarantees citizens' right to access information⁴⁴, however this law has yet to be passed.

On the other hand, despite the low quality of their content, there is a minor improvement in the publication of public institution reports, as they are still characterized by the character of achievement. AMAN's Fifteenth Annual Report on the State of Integrity and Combating Corruption in Palestine 2022

43 The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine. P. 23

44 The National Development Plan 2021-2023. P.62

stated that in terms of publishing reports in 2022, the following was noted⁴⁵:

- The Cabinet Secretariat of the Council of Ministers published its report, which presents the Council of Ministers' the follow-up of the work of the eighteenth government in 2021. The West Bank's eighteenth government also provides regular media news after the conclusion of its weekly meeting on the Council of Ministers' website, which is dominated by traditional political discourse and is quite concise regarding the decisions taken.
- The SAACB has published the annual report for 2021 on its website⁴⁶, which includes the entirety of its oversight work on public bodies, institutions, and ministries. For the second year in a row, the Bureau produced an accompanying report on the level of these bodies' commitment to the recommendations offered by the Bureau in its oversight reports.
- The PACC published the annual report for the year 2021 on its work and performance, which contains multiple details related to the complaints and reports received by the Commission⁴⁷.
- The Government Action Follow-up Committee in the Gaza Strip publishes the titles of decisions permanently and periodically after the completion of the meetings on the website of the government media office.
- The NCAML/CTF has not published the annual report on the crime of money laundering or any significant data or statistics about the extent of the spread of this crime and the funds generated from it. It has also not published any follow-ups to the national assessment report on the risks of money laundering and terrorist financing crimes submitted to the Prime Minister to date, even though it is legally required to do so, in accordance with the provisions contained in Decree Law No. (20) of 2015 and Decree Law No. (13) of 2016 on Anti-Money laundering and Terrorism Financing⁴⁸.
- Most institutions and security services continued not to publish their annual reports on their respective websites, with the exception of the Palestinian Police, which publishes statistics about its work. Moreover, most institutions and security services did not publish their annual plans on the website.
- Although some non-ministerial public institutions submit their annual reports to the President and Prime Minister, they do not publish these reports on the institution's website, such as the Orphans Fund, the Higher Council for Innovation & Excellence(HCIE), and the Palestinian Pension Agency.

45 The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine. Pp. 26-27

46 See the website of the State Audit and Administrative Control Bureau.
<https://saacb.ps/BruRpts/SAACB-Reports-2021.pdf>

47 See the website for the Palestinian Anti-Corruption Committee.
<https://www.pacc.ps/library/FlipperIndex>

48 To view the publications of the Financial Follow-up Unit of the National Committee for Anti-Money Laundering and Counter Terrorism Financing, last accessed 22/2/2023.
<https://www.ffu.ps/index.php>

In this regard, the following is noted:

- The Law on the Right of Access to Information has not been enacted.
- The results of the opinion poll, conducted in 2022 by AMAN on the State of Corruption and Anti-Corruption Efforts in Palestine showed that 67% of respondents do not believe that citizens can access public records easily and conveniently, while 24% believe this is possible⁴⁹.
- The government did not publish the concession agreements, the most recent of which was signed with Sorouh Energy Company to produce renewable energy from solid waste in Zahrat Al-Fanjan. Furthermore, the true owner of the corporation was not disclosed, while prominent people are in political power, indicating the existence of a conflict of interest and raising questions about the basis for awarding unjustified privileges⁵⁰.
- The government refused to sign the “Transparency Pledge” prepared by a coalition of international NGOs, which states the need for transparency in government and civil society participation in the process of the State of Palestine’s periodic review of the UNCAC. The government rejected the request based on a “recommendation” made by the PACC, citing that the signing of this document is voluntary rather than a mandatory request by the UNCAC and that the review is the responsibility of states rather than civil society⁵¹.
- Despite adopting an openness policy, the government has stopped publishing Council of Ministers decisions on its website since 2017, and only publishes a brief story about the meeting's decisions following each ministerial meeting.

Judicial Authority

“Each State Party shall take measures to prevent opportunities for corruption among members of the judiciary, including all those working in the courts, and shall create measures to ensure the independence of the judiciary, transparent procedures for appointments to the judiciary, a national code of conduct for judges, adequate training for judicial officers, appropriate court procedures, opening the courts to the public, obliging judges to give reasons for their rulings, and rewarding salaries.”

(Article 11 of the UNCAC)

The legal framework for the judicial authority and the Public Prosecution is centered in the amended Palestinian Basic Law of 2003, which established the principle of independence in a constitutional text, as Article (97) of it stipulates, “The judicial authority shall be independent, and shall be exercised by courts of different types and levels. The law shall determine the method of their constitution and jurisdiction. They shall issues their rulings according to the law.” Article (100) provides for “the High Judicial Council shall be created, and the law shall specify the way it is constituted, its mandate and its operating rules.” The Basic Law also elaborates on some general principles, such as publicity of hearings and execution of court decisions.

49 The Coalition for Integrity and Accountability (AMAN), 2022. The Public Opinion Poll on Corruption and Anti-Corruption Efforts. Palestine. P.27

50 The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption, Ramallah-Palestine. P.31

51 A letter from AMAN regarding urging the PNA to sign the “Transparency Pledge Document” and the response from the Council of Ministers to AMAN’s request.

• **Corruption Crimes Court:**

In 2011, the Corruption Crimes Court was established, and in 2012, a permanent panel of court judges was assigned, and there became full-time judges to work in the Corruption Crimes Court. In 2014, Decision Law No. (13) of 2014 was issued amending the Anti-Corruption Law No. (1) of 2005, which stipulates, "By decision of the High Judicial Council, a competent court 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 the Court of First Instance or a judge, who presides it by a decision from the HJC or is delegated to preside it from among judges of the Court of Appeal. Its membership shall include two judges, whose ranks are no less than a judge at the Court of First Instance."

The Amended Anti-Corruption Law No. (1) of 2005, specifically Article (8/9), grants the Palestinian Anti-Corruption Commission the authority to file lawsuits for the crimes specified in this Decree Law through the Corruption Crimes Prosecution in accordance with the provisions of this Decree Law and other relevant legislations. These lawsuits may be filed only in the situations permitted by law, and "it shall not be permissible to stop the lawsuit after filing, waiving it, abandoning it, or reconciling over it except in the cases specified by law." This text has created some ambiguity in its interpretation, as the apparent meaning of the text indicates that the PACC has the authority to start litigation for corruption crimes, through the Anti-Corruption Prosecution. This means that without a request from the PACC, the Public Prosecution cannot initiate lawsuits for corruption charges on its own. The Constitutional Court addressed this question after receiving an interpretation request from the Minister of Justice to interpret the text of the aforementioned Article (8/9). The court ruled that "the head of the PACC's jurisdiction relates to investigation files and gathering evidence in reports and complaints followed up by the Commission and does not extend to files and investigations held by the Public Prosecution, courts, or judicial police with general jurisdiction of non-PACC employees." It further indicated that files could be referred to the Attorney General for legal action or to the competent court to investigate corruption offences without going through the Commission.⁵² As a result, litigation relating to corruption issues can be filed either directly by the Public Prosecution or through the PACC through the Public Prosecution⁵³.

• **Constitutional Court**

The Supreme Constitutional Court (SCC) was established by Presidential Decree No. (75) of 2016, issued on March 31, 2016. Immediately following the announcement, Palestinian human rights organizations addressed the President, emphasizing the need "for the SCC to be a subsequent step that culminates the restoration of constitutional life, represented by holding general elections (presidential and legislative) and consolidating the Palestinian judiciary." It also called on the President "not to form the court based on political quotas through which any party or political entity seeks to control it. The Supreme Constitutional Court is the guardian of the basic law and the protector of public rights and freedoms. Its neutrality, integrity, and independence are matters that should not be compromised."⁵⁴

52 Decision of the Palestinian Constitutional Court in Request for Interpretation No. (2/2019) published in Issue (176) of the Palestinian Gazette. P. 144.

53 The Coalition for Integrity and Accountability (AMAN), 2022. Legal Paper on: Activating the Right of the Civil Society Organizations Concerned with Combatting Corruption to File Lawsuits in Corruption Cases. Palestine. P.8

54 A statement issued by 145 human rights organizations regarding the Supreme Constitutional Court.

<http://www.qudspress.com/index.php?page=show&id=25028>

Relating to the SCC, it is noted that⁵⁵:

- There are no precise legal criteria for selecting from among the nominated candidates who meet the criteria, which jeopardizes the court's independence. Especially since the first appointment is made by the President of the Palestinian Authority. Subsequently, a decision is issued forth by the President of the State based on a recommendation of the SCC General Assembly, allowing room for interference by the executive branch of government.
- Court judges are removed - in accordance with the amendment made to the court law - in the circumstances determined by law, and this opens the door wide to influencing independence, decisions, and pronouncements of the SCC judges.
- The SCC lacks financial independence, which opens the way for interference and pressure from the executive authority on the SCC.
- There is no code of conduct for judges of the Constitutional Court, although the court's rules of procedure include some standards that must be followed in judicial conduct.

• Public Prosecution

The Attorney General is appointed by the President in accordance with Article (107) of the Basic Law. Article (108) of the Basic Law stipulates that the formation of the Public Prosecution, the conditions for appointing its members, and its legal jurisdiction shall be according to a law . As a result, Judicial Authority Law No. (1) of 2000 was enacted to govern everything linked to judicial authority, including the Public Prosecution in terms of appointment, promotion, secondment, outpost, court types, and many other issues.


Although the Attorney General is appointed on the recommendation of the Council of Ministers, in practice he is appointed by the President and is treated as subordinate to the executive authority, which weakens the independence of his decisions because he represents the executive authority rather than the citizens.

The first and second articles of the law came to emphasise the topic of independence once more. In order to implement this article on the independence of this important body, the Judicial Authority Law specifies the financial independence of the judicial authority in Article (3). It further specifies that the Supreme Judicial Council creates the draft budget and sends it to the Minister of Justice to carry out the legal obligations in line with the provisions of the Budget Regulation Law, and that the Council is in charge of supervising its implementation⁵⁶. The policy of establishing specialized prosecutions, such as the Anti-Economic Crimes Prosecution, was also approved by decision of the Attorney General No. (28/2006). This decision and the subsequent decision bearing No. (1/2012) included the jurisdiction of this prosecution, which are to combat money laundering, tax and customs evasion crimes, and economic crimes related to consumer protection.

A Code of Conduct for Members of the Public Prosecution was also adopted (prepared in partnership with AMAN in 2012), approved by the Attorney General and distributed to members of the Public Prosecution. It is part of the basic training for members of the Public Prosecution and is taken into account during internal inspection of members of the Public Prosecution. As for administrative employees, they are subject to the Code of Conduct approved by the Council of Ministers for Civil Servants issued in 2012. In addition to the Code of Conduct, there is the Attorney General's Judicial Procedures Manual of 2009, which includes a chapter on actions prohibited for members of the prosecution. However, the prosecution does not have a special register to record the gifts that members of the prosecution may receive while performing their work.

55 The Coalition for Integrity and Accountability (AMAN), 2022. The Integrity, Impartiality, and Independence of the Work and Decisions of the Supreme Constitutional Court. Ramallah-Palestine. P.35

56 Article (3) of Judicial Authority Law No. (1) of 2002.



The Judicial Inspection Department is responsible for receiving and examining complaints related to the work, actions and behaviour of members of the Public Prosecution, in addition to monitoring the correct application and completion of investigation and referral procedures and other issues. In this context, results of the opinion poll, conducted in 2022 by AMAN on the state of corruption and combating it in Palestine, showed that 68 percent of respondents believe that corruption exists in the Judicial Authority (80 percent in the West Bank; 50 percent in the Gaza Strip). This reflects the negative perception of the state of the judiciary authority in general and the Public Prosecution in particular.

Prevention of Corruption in the Private Sector

“Each State Party shall take measures, in accordance with appropriate standards of accounting and auditing, to provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures, and to safeguard the procedures for integrity, such as codes of conduct, and enhance standards of transparency between private entities (such as natural and legal persons), preventing the misuse of procedures regulating private enterprises, and disallowing the tax deductibility of expenses that constitute bribes.”

(Article 12 of the UNCAC)

- It should be noted that, despite the State of Palestine's 2014 accession to the United Nations Convention against Corruption (UNCAC), the harmonization of Palestinian legislation, particularly the Anti-Corruption Law No. (1) of 2005, with the requirements of the Convention, particularly in terms of criminalizing corruption in the private sector, was incomplete and unbalanced with the harmonization that was achieved in terms of criminalizing acts of corruption in the public sector. Bribery, for example, was not criminalized in the private sector, and criminalizing property embezzlement in the private sector through the Penal Code's crime of mistrust is inconsistent with the considerations and strictness that the Convention seeks in prosecuting corruption crimes⁵⁷.
- In its work, the private sector is subject to a set of laws, such as the Capital Market Authority Law, the Monetary Authority Law, the Banking Law, the Securities Law, the Decree-Law on Financial Leasing, the Auditing Profession Law, the Companies Law, and others. These laws required companies to appoint legal auditors, and not to appoint an auditor if he/she was a partner of a member of the board of directors in order to avoid a conflict of interest.
- Although the Anti-Corruption Law does not apply to private sector companies, the Decree Law on Companies No. (42) of 2021 included provisions similar to those contained in the Anti-Corruption Law, and prohibited the practice of many acts that constitute an infringement on the company's funds or where there are suspicions of a conflict of interest, but the real owners are not required to be disclosed when registering the company. Examples of this include:
 - The Decree Law prohibits a company partner from using legal personality as a front for fraud or abuse, or as a tool to avoid an existing obligation or legal responsibility. It also prohibits disposing of or using the company's funds and assets as if they were his/her own property, using the company's

⁵⁷ The Coalition for Integrity and Accountability (AMAN), 2023. A Paper on: Criminalizing Acts of Corruption in the Palestinian Private Sector. Ramallah-Palestine. P.4

funds and assets in a way that harms the company's creditors, and using the company's funds and assets for his/her personal benefit or the benefit of third parties, despite actual knowledge or need to know of the company's inability to fulfil its obligations⁵⁸.

- The Decree Law requires company managers to avoid situations that could result in a conflict of interest between the company's interests and his/her direct or indirect interests, as well as to disclose to partners, members, and shareholders, depending on the type of company, the possibility of any conflict of interest arising between his/her responsibilities and duties as company manager and his/her personal interests. The preceding is applicable in the event he/she owns any movable or immovable property, enters into a contract, or has the potential to exploit information or opportunities that may create a conflict between the company's and his/her personal interests⁵⁹.

- Any person may not be nominated for membership on the board of directors of a public shareholding company if he or she has been sentenced, pursuant to a final, definitive ruling from a competent court, to any criminal penalty or misdemeanor in an offence prejudicial to honor, such as bribery, embezzlement, theft, forgery, misappropriation, or perjury, or if he or she is incapacitated or declared bankrupt, unless rehabilitated⁶⁰.

- Upon the request of shareholders owning at least 5% of the company's capital, the board of directors must disclose to the General Assembly during its meeting any information or circumstances that would affect the evaluation of any of the issues on the agenda or the evaluation of the company's financial situation. If the answer to the shareholders' request requires information that the General Assembly is lacking, the shareholders must be provided with that information within two weeks of the General Assembly's meeting date⁶¹.

- The Board of Directors must deposit the company's financial statements, profit and loss account, a comprehensive summary of the Board of Directors' annual report, in addition to the company's auditors' report approved by the General Assembly, with the Companies Registry and publish them on the Companies Registry's website and any other methods stipulated by the Law on Securities within four months of the end of the company's fiscal year⁶².

- The auditor may not have been involved in the establishment of the public shareholding company whose accounts he audits, nor may he be a member of its board of directors or work in any permanent technical, administrative, or advisory capacity for it. He/she may also not be a partner or employee of any member of its board of directors, under penalty of invalidating any action or conduct that occurs in violation⁶³.

• In its annual report for 2021, the Capital Market Authority stated that it worked during the same year to complete the rebuilding and development of the 2009 Corporate Governance Code. In this context, an in-depth review of the Code issued in 2009 was conducted to include developments in corporate governance principles and requirements at the international level. In addition to changes in local legislative frameworks and governance principles and developments, particularly in disclosure and risk management, as well as the role of the board of directors and executive management. On the other hand, work is underway to incorporate the requirements of the new Companies Law No. (42) of 2021 and its implications into the updated Code. The Authority also stated in the same report

58 See Article (19) of Decree Law on Companies No. (42) of 2021.

59 Ibid. Article (20).

60 Ibid. Article (23/5).

61 Ibid. Article (196/1).

62 Ibid. Article (217).

63 Ibid. Article (223).

that the corporate governance course has been integrated into Palestinian universities, with five Palestinian universities including the course in their teaching plans by the end of 2021, and work is also underway to include the course in two other universities⁶⁴.

- The Capital Market Authority issued several circulars in 2021 that would increase the efficiency and capability of companies to confront the risks of money laundering and terrorism financing and to detect suspicious transactions using a risk-based approach. Among these circulars is one requiring the submission of an annual report on all anti-money laundering activities, the external auditor's circular, the internal auditor's circular, the (7) resolutions issued by the UN Security Council circular, the circular for high-risk countries that are prohibited from dealing with and publishing them on the Authority's website, the circular for the self-assessment tool, the circular for increasing insurance companies' efficiency, and the circular for report on patterns and trends of money laundering, circular on registration on the GOAML program, specialized inspection rounds, and preparing risk registers⁶⁵.

On another level, the Capital Market Authority carried out the following actions:

- The Authority issued the Instructions for Licensing the Issuance Trustee, in accordance with the provisions of Article (75) of the Securities Law No. (12) of 2004. In Article 4, these instructions addressed the issue of conflict of interest, by stipulating the following:
 - The Issue Trustee is prohibited from having a commercial or financial interest in the issue, including subscription to loan bonds, or disposing of the loan bonds placed as a pledge to his/her benefit, except in accordance with the provisions of Article 7 of the Instructions on Issue Trustees or the agreement concluded between him/her and the issuing company.
 - The issue trustee 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.
 - The issue trustee is prohibited from combining the functions of the Issue Trustee with the tasks of custodian and issuance manager for the same issue category.
- Issuing Instructions No. (2) of 2008 on Disclosure and amended Instructions No. (1) of 2013. These instructions relate to the salaries, bonuses and allowances of members of the Board of Directors and statements disclosing the amounts received by executive management employees during the fiscal year.
- Preparing a handbook for applying the corporate governance measurement model and assisting companies in meeting its requirements in 2013.
- Issuing a decision on the transparency of securities' trading in 2013.
- Launching the e-governance website in 2013.
- Issuing Instructions No. (1) of 2014 on the Code of Professional Conduct for Insurance Companies, amending Instructions No. (4) of 2007 on the Code of Professional Conduct for Insurance Companies.

64 Palestinian Capital Market Authority Annual Report 202.P. 31.

65 Ibid. P.34.

- Issuing a circular requiring insurance companies to commit to presenting to the Authority the report of the actuary selected by the company along with the final financial accounts. Furthermore, companies are required not to distribute any profits to shareholders unless an expert's report proves that there is a surplus of funds after the requisite inspection of the company's financial position and after receiving approval from the Authority.

With regard to combating corruption in the private sector, the following observations can be made:

1. it should be noted that the current legislation does not criminalize bribery and embezzlement in the private sector, and attention must be paid to the importance of filling this void in accordance with what the UNCAN stipulates regarding the criminalization of bribery in the private sector, due to its impact on combating and reducing the spread of corruption. However, it should be noted that the absence of a number of laws, such as a law on competition and anti-monopoly, a law on public concessions, and a public debt law, creates a legislative vacuum whose problems are reflected in the environment of integrity, transparency, and accountability in the private sector.

2. Concessions to private sector companies continue to be granted in Palestine in the absence of a comprehensive legal framework, owing to the lack of a general law regulating the principles and rules for granting concessions in the management and operation of vital service facilities that have been privatized for management or operation. The lack of a law governing concessions and preventing monopolies has weakened the supervisory role of organized bodies in general; because the government does not operate under an approved and published general policy that can be relied on to privatize services. The aforementioned caused regulatory oversight bodies to be weak in monitoring service providers, and the executive authority continues to play the role of supervision, oversight, and, on occasion, implementation, as is the case with the communications sector, which is a task that must be included on the governmental and societal agenda.

3. The absence of a system or regulation to regulate the procedures for the transfer of ministers, deputy ministers, and tax and customs officials to work in the private sector.

4. The boards of directors in many public shareholding companies that manage public facilities still do not adopt a binding system for disclosing conflicts of interest to members of their management when they arise.

Civil Society Participation

“Each State Party shall take appropriate measures to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption, and the existence of anti-corruption body or bodies, and to promote the effective participation of civil society organizations in monitoring and reviewing national and international anti-corruption policies and agreements, and to ensure the public’s access to anti-corruption-related documents; such as policies, reviews, and evaluations.”

(Article 13 of the UNCAC)

- Law No. 1 of 2000 Concerning Charitable Associations and Civil Society Organizations is the legal framework that governs the work of civil society institutions and non-governmental organizations, whose presence is deemed necessary in any society. The number of registered local civil society organizations in the West Bank and Gaza Strip has reached approximately 3,000. However, institutions specialized in preserving public money, enhancing integrity, spreading transparency, oversight and accountability regarding public affairs management and combating and prosecuting corruption remain limited. A number of civil society organizations took the initiative to create coalitions in collaboration and coordination with AMAN, the most prominent of which were the Civil Society Team for Enhancing Public Budget Transparency, and the Civil Forum to Promote Good Governance in the Security Sector. The NGO Development Center (NDC) and AMAN also contributed to building the capabilities of a number of civil society organizations in the administrative and financial aspects, allowing them to improve the internal governance environment and strengthen internal accountability mechanisms.
- Based on a Council of Ministers’ decision, a government committee was established to communicate and collaborate with civil society organisations. However, the government only invited some civil society organisations on a selective basis, which did not reflect a real participatory approach between the government and those organizations. In spite of the prejudiced and unfavourable government position, the civil society continues to participate in, exercises accountability for legislations and policies, and provide popular control over the government functions. As a result of the government’s insistence on restricting media freedoms through the issuance of a Decree Law in this regard, civil society organizations that are members of the joint committee with the government declared the failure of this committee after the practical application of this Decree Law revealed arrests, detentions, summons, and attacks against journalists and citizens, which hinders carrying out accountability.
- In 2022, there were ongoing efforts in the West Bank to limit the scope of community work, with draft laws aimed at reversing the role of civil institutions in determining national priorities and community oversight. Attempts were made to issue a regulation governing the non-profit sector, as well as legal arrangements and a licensing system for media institutions. In 2022, the authority in the Gaza Strip imposed restrictive measures on the work of civil society organizations and freedom of peaceful assembly. This was done by necessitating a request for a permit or notification from the Ministry of Interior (Police Service/Institutional Investigation Department). The said request must specify the nature and reasons of any institutional activity several days prior to its occurrence. For example, security forces stopped and prevented a number of activities held in closed spaces, such as the celebration of [International] Human Rights Day; preventing the holding of a workshop

at the “Filistiniyyat” association; banning a sports activity for girls below the age of 12 on the pretext that it is inconsistent with social and Islamic values; and summoning a member of that organization to the General Investigation Department to interrogate and receive detailed information about that activity. The said measures violate the freedom of work of charitable societies and contravene Palestinian laws, especially the right to form charitable societies and the freedom of peaceful assembly. This in turn weakened the governance integrity due to adopting policies, decisions, and measures that serve the beliefs and orientations of the ruling party in the Gaza Strip by weakening or “domesticating” Palestinian social movements⁶⁶.

In 2022, the Palestinian government continued to prepare draft decree laws behind a veil of secrecy, with no consultations or community discussion by the various parties and partners from the private and civil sectors. Such as civil society organizations, specialized research centers, partner federations and unions. In addition to enacting legislation that the government later rescinded, such as the Decree Law on Dissolution of the democratically elected board of the Palestinian Medical Association, the Decree Law Amending the Code of Penal Procedure, and the Decree Law Amending the Code of Civil and Commercial Procedure. In 2022, the ruling authority in the Gaza Strip discussed a number of draft laws and regulations, such as the new Land Law bill, regulations on projects for generating electric power from renewable energy sources, and regulations on the activities of renewable energy companies. However, this was done without consultation or community discussion with different parties and partners from the private and civil sectors, such as civil society organizations, specialized research centers, and partner federations and associations. Additionally, the Government Action Follow-up Committee unilaterally published the Strategic Framework document for 2022-2024 and the Development Plan for 2022-2024 for the southern governorates, without engaging the civil society organizations⁶⁷.

Measures to Prevent Money Laundering

“Each State Party shall take measures to use international best practices, including beneficial owner identification, record-keeping and the reporting of suspicious transactions; granting relevant authorities the ability to cooperate and exchange information at the national and international levels, the establishment of a financial intelligence unit, implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, providing meaningful information on the originator in electronic money transfers, applying enhanced scrutiny to transfers of funds that do not contain complete information on the originator, 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 Decree Law No. (9) of 2007 was promulgated. Palestine also enacted the Amended Decree Law on Anti-Money Laundering and Terrorism Financing Law No. (20) of 2015, and Anti-Money Laundering and Terrorism Financing Law No. (13) of 2016.

⁶⁶ The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption, Ramallah-Palestine. P.14

⁶⁷ Ibid. Pp. 24-25

• In 2022, Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing was issued. This Decree Law repealed all legislation issued before it, and its provisions are consistent in many aspects with the UNCAC. The Decree Law contains a set of necessary provisions to combat money laundering. The most prominent of which are as follows:

- The National Anti-Money Laundering Committee is established in accordance with the provisions of the Decree Law, which grants the Committee many jurisdiction that revolve around developing policies and strategies to combat money laundering and terrorist financing and following up on the implementation of those policies in cooperation with the relevant authorities.

- The Financial Follow-up Unit was established and is headquartered at the Palestine Monetary Authority. This Unit aims to combat the crime of money laundering, protect the national economy from its negative consequences, improve anti-money laundering systems and procedures in Palestine, and activate local cooperation frameworks with all competent authorities. The Unit is overseen by the National Anti-Money Laundering Committee, which develops policies aimed at combating this crime and establishing an effective combat system.

- The Decree Law required financial institutions to take several measures to prevent money-laundering operations through banks.

- The crime of money laundering was declared a felony by the Decree Law, which the perpetrator of will be sentenced to imprisonment for no less than three years and no more than seven years. If the perpetrator of the money laundering crime is a legal person, it shall be fined no less than (10,000) Jordanian dinars and no more than (200,000) Jordanian dinars.

- The Decree Law requires the State to cooperate with foreign countries to provide mutual legal assistance in combating the crime of money laundering and related predicate crimes, as well as combating terrorism financing, provided that it urgently provides the greatest possible cooperation to its foreign counterpart, or requests that from it, in relation to investigations, criminal proceedings, prosecution cases, and related procedures. Mutual legal assistance includes provisions for confiscation, precautionary seizure, and identification of funds, proceeds, or media for the purposes of seizure, freezing, or confiscation, including funds whose value is equal to the value of the proceeds.

• On another level, many regulations and instructions have been issued that aim to combat the crime of money laundering and terrorism financing, including:

- Regulation No. (1) of 2023 specifying the authorities in charge of financial institutions, designated non-financial businesses and professions, and non-profit organizations for the purposes of combating money laundering and terrorist financing.

- The Supervision System for Merchants and Jewellers of Precious Metals and Gemstones to Combat Money Laundering and Terrorism Financing Crimes No. (5) of 2021.


- Instructions No. (4) of 2022 on Anti-Money Laundering and Combating Terrorism Financing for Financial Institutions.

- Instructions No. (3) of 2022 on Combating Money Laundering and Terrorism Financing Concerning Designated Non-Financial Businesses and Professions.

- Guidelines No. (1) Related to the Politically Exposed Person (PEPS).

- Instructions No. (1) of 2016 on the Disclosure of Currencies, Bonds, E-money, Precious Stones or Metals When Crossing the Borders into the State.

- Instructions No. (3) of 2016 on Anti-Money Laundering and Counter-Terrorism Financing Measures for the Importing of Used Car from outside Palestine.

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- Also, the Palestine Monetary Authority issued many instructions and circulars aimed at combating money laundering operations, including:
 - The Anti-Money Laundering and Combating Terrorism Financing Procedures Guide for Banks.
 - Instructions No. (9) of 2022 on Issuance and Receipt of Remittances.
 - Instructions No. (18) of 2021 on the Function of Combating Money Laundering and Terrorism Financing.
 - Circular No. (253) of 2019 Related to the Internal Audit on Banks AML-CFT Environment.
 - Instructions No. (11) of 2019: Related to Adjustment Instruction of AML-CFT Function.
 - Circular No. (158) of 2017 on Assuring the Update of Legal Entity and Natural Persons Data.
 - Instructions No. (10) of 2017 Related to Manual of Rules and Best Practices for Banks Governance⁶⁸.
 - The Capital Market Authority (CMA) has also taken numerous measures to combat money laundering operations, including a circular directed to CMA-regulated entities (the Palestine Stock Exchange, securities companies, insurance companies, and financial leasing companies) on the examination of control and oversight systems to ensure their effectiveness in combating money laundering and terrorism financing, with the need to review it periodically to correct any deficiencies or update and develop it to increase its efficiency and effectiveness. In addition to the instructions directed to entities subject to the Capital Market Authority, prohibiting dealing with BITCOIN virtual currencies as they carry high risks because they are not guaranteed by any entity, and all parties and entities that offer and deal with them are not subject to or licenced by any supervisory body. In addition to the instructions related to the application of the principle of disclosure policies, as all workers in entities under the Authority's oversight, particularly those in high positions such as general managers and members of boards of directors, must disclose all financial transactions of themselves and their first-degree relatives, and that all of these transactions are subject to scrutiny⁶⁹.
 - In 2022, the Council of Ministers also made decisions on anti-money laundering and terrorism financing. These decisions included approving the one issued in the Council of Ministers session No. (147) on February 16, 2022 approving the recommendations of the Legislative Harmonization Committee to Follow-up Palestine's Accession to International Treaties and Conventions regarding the harmonization of a draft Decree Law on Anti-Money Laundering and Terrorism Financing. In addition, the decision issued in Council of Ministers in their session No. (167) on July 18, 2022 directing the relevant government agencies to expedite taking measures related to the process of "evaluating the money laundering and financial crimes system of the State of Palestine" by the Middle East and North Africa Financial Action Task Force (MENAFATF)⁷⁰.

68 Official website of Palestine Monetary Authority.
<https://www.pma.ps/ar/>

69 Official website of Palestinian Capital Market Authority.
www.pcma.ps

70 Official website of Council of Ministers decisions published on the Council.
www.palestinecabinet.gov.ps/

► Chapter V: Asset Recovery

Articles (51-59) of the UNCAC regulate many topics related to the prevention and detection of transfers of proceeds of crime, measures for direct recovery of property, mechanisms for recovery of property through international cooperation in confiscation, international cooperation for purposes of confiscation, return and disposal of assets and the establishment of the Financial Intelligence Unit.

Although the phenomenon of smuggling assets, including proceeds from illegal activities, is considered rare in Palestine, the State of Palestine still faces numerous legislative and executive challenges. Specifically, in the field of concluding bilateral agreements and accession to international conventions in the field of International judiciary cooperation, whether at the level of recovering assets resulting from the commission of crimes or at the level of executing sentences or extraditing criminals.

However, the State of Palestine has made many efforts in this field, including the following:

- **Verification of the identity of persons depositing funds and auditing of financial accounts**

In accordance with the provisions of Article (52/1) of the UNCAC, each State Party shall take such measures as may be necessary to require financial institutions to verify the identity of customers and to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts. In addition to numerous instructions and circulars issued by the PMA in this field- which was mentioned previously- Article (10) of Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing required financial institutions to take due diligence measures for all customers, natural or legal, which are as follows:

- Should not keep anonymous accounts or accounts in fictitious names.
- Identify and verify the identities of their customers through reliable documents, data, or records.
- Verify that the person claiming to act on behalf of the client is authorized, and identify and verify his or her identity.
- Identify the true beneficiary and take reasonable steps to verify his/her identity using documents, information, or data obtained from a reliable and independent source in such a way that the financial institution is convinced that it knows who the true beneficiary is.
- Understand the purpose and nature of the business relationship and gather relevant information about it.
- Understand the nature of the client's business when it is a legal person or legal arrangement, and its ownership and control structure.
- Exerting ongoing due diligence on any business relationship, including carefully studying the operations being carried out and their purpose to ensure that they are consistent with the information it has about its clients, their business activities and their risk profile, including, if necessary, the source of funds. Additionally, ensuring that documents, data and information collected, in accordance with this article, is constantly updated and appropriate, through a review of existing records, particularly, for high-risk customers.

Article (11) of the same Decree Law also specified the circumstances in which previously mentioned measures must be taken by financial institutions, which are as follows:

- When establishing a business relationship.
- When performing any incidental operation.
- When carrying out an operation whose value reaches or exceeds the value determined by the committee in accordance with instructions issued in this regard, whether carried out as a single operation or a series of operations that appear to be related to one another.
- When transferring funds locally or internationally, the value of which reaches or exceeds the value determined by the committee in accordance with the instructions issued in this regard.
- When there is doubt about the validity, accuracy, or adequacy of previously obtained data related to identifying the customer's identity.
- When suspected of money laundering or terrorism financing, regardless of any specific exemptions or limits referred to in this Decree Law or the instructions or regulations issued pursuant to it.
- Verifying the identity of the customer and the true beneficiary before or during the establishment of the business relationship or the performance of operations for infrequent customers. The verification process may be completed after establishing the business relationship, provided that it is postponed based on the effective management of money laundering and terrorist financing risks, and that it occurs as soon as possible so as not to impede work progress.
- Adopting risk management procedures in circumstances where the customer could benefit from the business relationship prior to the verification process.

• **Organizing the legal framework for politically exposed persons (PEPS)**

The National Committee for Anti-Money Laundering and Countering Terrorism Financing (NCAML/CTF) issued Instructions No. (1) of 2018 on Politically Exposed Persons, which defines politically exposed persons as any person along with their family, relatives, and associates, who is or has been entrusted with the following positions in Palestine or abroad:

1. People holding prominent public functions or political positions
 - a. The head of state, his advisors, and the heads of institutions affiliated with the presidency.
 - b. The Prime Minister, members of the Council of Ministers, and those of similar status.
 - c. Deputies of ministers and those of similar status.
 - d. Directors and general directors in government and public jobs and those of similar status.
 - e. Directors and heads of public bodies and institutions and those of similar status.
 - f. Chairman and members of the Legislative Council.
 - g. Chief Justice and members of the Judicial Council.
 - h. Commanders and leaders of the security services, their officials, and directors of their departments and divisions in general directorates and governorates.
 - i. Directors, leaders and officials of Palestinian Public Security.
 - j. Directors of public security departments and divisions in general directorates and governorates.
 - k. Commanders and senior ranking officials in political parties and Palestinian factions; persons holding senior positions in these parties and factions.
2. Heads, deputies directors, and board members of charitable institutions and associations and local and foreign NGOs and civil society organizations;
3. Ambassadors, consuls and members of the diplomatic corps;
4. Heads, directors, deputy directors and representatives of international organizations;
5. Executives of state-owned companies.

The Anti-Corruption Law No. (1) of 2005 and its amendments did not explicitly define politically exposed persons, while Article (2) of it deals with the entities subject to submitting a financial disclosure, which are large numbers of workers in the management of governmental and non-governmental public affairs.

As for Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing, Article (1) defines the politically exposed persons as the natural person who represents any of the following categories:

1. Foreign politically exposed person: A natural person who holds or has held a prominent public position in foreign countries, including the following positions:

- a. Heads of states and governments.
- b. Senior politicians.
- c. Senior government, judicial or military officials.
- d. Senior officials of state-owned companies.
- e. Senior officials of political parties.
- f. Other persons determined by the Committee.

2. Local politically exposed person: a natural person who holds or has held a prominent position in the country, including the positions referred to in Paragraph (1) above.

3. Officials of international organizations: a natural person who holds or has held a prominent position in an international organization, including:

- a. Members of senior management (managers and their deputies).
- b. Board of Directors.
- c. Positions equivalent to those stipulated in clauses (a & b) above.

• **The founding of the National Committee for Anti-Money Laundering and Countering Terrorism Financing (NCAML/CTF)**

The NCAML/CTF was established pursuant to Article (29) of Decree Law No. (39) of 2022 and its amendments on Anti-Money Laundering and Terrorism Financing. It is the authority that was vested with the following powers and competencies under the terms of Articles (30 and 31) of the Decree Law:

- Develop policies and strategies to combat money laundering and terrorism financing, prohibit the financing of weapons of mass destruction and follow up on the implementation of those policies and strategies. When necessary, it may coordinate with any other parties not represented on the Committee in this regard.

- Coordinate with competent and supervisory authorities to develop and implement policies, activities, and procedures to combat money laundering, terrorism financing, the proliferation of weapons of mass destruction, as well as activating the necessary policies for cooperation between those authorities and the Unit to facilitate the flow of information between them in a way that ensures data protection and privacy.

- At the invitation of the Financial Action Task Force (FATF), identify high-risk countries and notify financial institutions and designated non-financial businesses and professions through the supervisory authority in order to apply enhanced due diligence measures commensurate with the degree of risk.

- Take effective countermeasures that are proportional to the degree of risk based on a call from the FATF or at the initiative of the Committee, and notify all relevant authorities of the application of those measures.

- Coordinate procedures to identify and evaluate the risks of money laundering, terrorism financing, and financing the proliferation of weapons of mass destruction, as well as obtaining all information from the supervisory and competent authorities to carry out and update this assessment.

Within the framework of international cooperation to combat money laundering, the National Anti-Money Laundering Committee has signed several memorandums of understanding with several countries, and the following table shows those memorandums⁷¹:

No.	Name of Financial Intelligence Units (FIUs)	Country
1.	Anti-Money Laundering & Counter Terrorist Financing Unit (AMLU Jordan)	Hashemite Kingdom of Jordan
2.	Federal Financial Monitoring Service (Rosfinmonitoring)	Russian Federation
3.	Financial Information Processing Unit (UTRF)	Kingdom of Morocco
4.	Tunisian Financial Analysis Committee (CTAF)	Republic of Tunisia
5.	Financial Information Unit (FIUSU)	Republic of Sudan
6.	Indonesian Financial Transaction Reports and Analysis Centre (PPATK)	Republic of Indonesia
7.	Qatar Financial Information Unit (QFIU)	Qatar
8.	Anti-Money Laundering Division (AMLDD)	Taiwan

The formation of the Financial Follow-up Unit (FFU)

The Financial Follow-up Unit was established as an independent entity by Decree Law No. (20) of 2015 and its amendments on Anti-Money Laundering and Terrorism Financing. This Unit's mission is to combat money laundering and terrorism financing, protect the national economy from the negative effects of these two crimes, and raise the efficiency of anti-money laundering and terrorism financing systems and procedures in Palestine, as well as activate local cooperation frameworks with all relevant authorities. The unit strives to put into action the goals set by the National Committee on Anti-Money Laundering and Countering Terrorism Financing, which develops policies to combat these two crimes at the local and international levels. The Unit practices many specializations, including:

- Receiving and requesting information from entities subject to the provisions of this law about operations suspected of involving money laundering or terrorism financing.
- Collecting and analyzing information on suspicious financial transactions from various official and unofficial sources.
- Disseminating information and the results of analyzing information related to the proceeds of crimes suspected of including money laundering and terrorism financing operations, in accordance with the provisions of this law.
- Using its powers to halt the execution of operations suspected of involving money laundering and terrorism financing crimes within the timeframes specified.

⁷¹ Official website of the Financial Follow-up Unit.
<https://www.ffu.ps/>

• **Prohibiting the establishment of banks that lack a physical presence**

“With 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 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.”

(Article 52/4 of the UNCAC)

Examining the legislation in force in the Palestinian territories reveals that it is harmonized with what is stated in the aforementioned Article (52/4) of the UNCAC, as follows:

- **With reference to Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing**, Article (7) thereof prohibits the establishment or operation of a shell bank in the country. This Article also prohibited financial institutions from initiating or continuing business relationships or operations with shell banks, as well as from initiating or continuing correspondent banking business, operations, or any other business relationships with shell banks, or from permitting them to make use of their accounts. The same Article also obliged financial institutions to verify that responding institutions do not permit shell banks to access their accounts. Moreover, according to Article (59) of the same Decree Law, anyone who intentionally violates the provisions of this Article will face imprisonment for no less than three months and no more than two years, or a fine of no less than (5000) five thousand Jordanian dinars and no more than (50,000) fifty thousand Jordanian dinars or its equivalent in legally circulated currency, or both penalties.

- **With reference to Decree Law No. (9) of 2010 on banks**, Article (4) thereof prohibited any person in Palestine from using the word “bank” or its synonyms or any other expression similar to it in any language in documents, publications, address, commercials, its name, and its advertising unless it has a license issued by the Palestine Monetary Authority (PMA). The aforementioned is applicable unless this use is in accordance with any applicable legislation or an international agreement to which the PNA is a party, provided that the representative office of the incoming bank is allowed to use the word “bank” if it forms part of the name of the incoming bank, and the term “representative office” is used in the body of the name. Article (5) of the same Decree Law required the PMA to maintain a central register of all types of banks, representative offices, specialized licensed lending institutions, and money changers, in which all information related to them was recorded. The Decree Law also required the PMA to publish at the beginning of each year, in the Official Gazette and three newspapers issued on a daily basis, at the expense of the license applicant, a list of all banks licensed to practice banking business in Palestine, all licensed specialized lending institutions, all licensed money changers, and also publish any approvals to grant new licenses directly in the Official Gazette, in addition to publishing any changes that may occur to the list periodically. Furthermore, Article (6) of the Decree Law prohibits any person from carrying out any banking business in Palestine without obtaining a prior written license issued by the PMA. It also prohibits registering any company whose purposes is to practice banking in Palestine with the Companies Controller until after obtaining prior initial written approval from the PMA.

Article (54) of the Decree Law penalized anyone who violates the preceding articles with a fine of no less than (5,000) five thousand US dollars and no more than (250,000) two hundred and fifty thousand US dollars, or its equivalent in currencies circulating in Palestine, as well as the civil or penal liabilities that result in accordance with the provisions of any other legislation.

• **Accession to international conventions, membership in international organizations, and conclusion of international agreements and memorandums of understanding**

“State 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.”

(Article 59 of the UNCAC)

This Article is considered voluntary and not obligatory.

The State of Palestine has made many modest efforts in this field, including:

- **Accession to international conventions:** Palestine acceded to the United Nations Convention against Corruption (UNCAC) in 2014, the United Nations Convention against Transnational Organized Crime in 2015, and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 2018.

- **Membership in international organizations:** The State of Palestine joined the International Criminal Police Organization (INTERPOL) on 9/27/2017, Where the Organization accepted the State of Palestine as a member, after 74 countries voted in favor of the resolution. The importance of this measure lies primarily in Palestine’s attempt to emphasize its legal status as a state, and that joining will open the way for Palestine to pursue some fugitives from justice, provided that the country in which they are located is a member of INTERPOL. As for Israel, it is possible later, through exerting political pressure, to request that INTERPOL extradites some Israelis accused of committing crimes against Palestinians, if a Palestinian court issues a ruling to do so and requests so from Interpol. On the other hand, the decision to join the Organization requires the State of Palestine to hold accountable, arrest and prosecute any Palestinian who is a fugitive from justice and is accused of a crime he committed in another INTERPOL member country.

- **Signing memorandums of understanding**

The Palestinian Anti-Corruption Commission continued to sign memorandums of understanding at the international and Arab levels in order to exchange experiences and strengthen anti-corruption preventive mechanisms. These agreements resulted in numerous mutual activities and the transfer of expertise to help improve the environment that repels and prevents corruption. The following are the parties with whom an agreement was signed in 2021⁷²:

Country	Institution
People’s Republic of China	National Monitoring Committee
Federal Republic of Tanzania	Prevention and Combating of Corruption Bureau
Republic of Italy	National Anti-Corruption Authority
Federal Republic of Nigeria	Independent Corrupt Practices Commission
Republic of Yemen	Supreme National Authority for Combating Corruption

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► List of References and Resources

First: Legislations


1. United Nations Convention against Corruption (UNCAC), 2003.
2. Amended Basic Law of 2003.
3. Civil Service Law No. (4) of 1998.
4. Law of the Organisation of the General Budget and Public Finances No. (7) of 1998.
5. Law No. (1) of 2000 Concerning Charitable Associations and Civil Society Organizations.
6. Judicial Authority Law No. (1) of 2002.
7. The State Audit and Administrative Control Bureau law No. (15) of 2004.
8. The Law on the Rights and Duties of Members of the Palestinian Legislative Council No. (10) of 2004.
9. Amended Anti-Corruption Law No. (1) of 2005.
10. Palestinian Law on Public Debt No. (24) of 2005.
11. Amended Law on Local Council Elections No. (10) of 2005.
12. Decree Law No. (1) of 2007 on General Elections.
13. Decree Law No. (8) of 2014 on Public Procurement.
14. Decree Law No. (42) of 2021 on Companies.
15. Decree Law No. (39) of 2022 on Anti-Money Laundering and Terrorism Financing.
16. Penal Code No. (16) of 1960.
17. Penal Code No. (74) of 1936.
18. Financial Regulations of Ministries and Public Institutions No. (43) of 2005.
19. Judicial Inspection System No. (12) of 2021.
20. Regulation No. (45) of 2005 of the Civil Service Law
21. System of Granting Bonuses to Civil Servants No. (21) of 2022.
22. The Regulation on Public Procurement No. (5) of 2014.
23. Regulation No. (7) of 2019 on the Protection of Whistleblowers, Witnesses, Informants, and Experts in Corruption Cases, as well as their Relatives and Persons Closely Related to Them.
24. Regulation No. (1) of 2020 on Conflict of Interests.

Second: Codes of Conduct

1. Code of Conduct and Ethics for the Civil Service No. (4) 2020.
2. Code of Judicial Conduct 2020.
3. General Code of Conduct for Members of the Palestinian Security Forces 2018.
4. Code of Conduct and Ethics of the Palestinian Police 2012.
5. Code of Conduct for the General Intelligence 2010.
6. Code of Conduct for Palestinian Civil Defence 2015.
7. Code of Conduct and Ethics of the Public Office for the Employees of the Palestinian Anti-Corruption Commission 2021.
8. The Code of Conduct for Corporate Governance 2009.

Third: Reports

1. The Coalition for Integrity and Accountability-AMAN, 2022. The Fifteenth Annual Report on the State of Integrity and Combating Corruption. Ramallah-Palestine.
2. The Coalition for Integrity and Accountability-AMAN, 2021. Fourteenth Annual Report on the Palestinian Experience: Governance Integrity & Combating Political Corruption. Ramallah-Palestine.
3. The Coalition for Integrity and Accountability-AMAN, 2022. Report on Observation of the Second

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- Phase of Local Elections. Ramallah-Palestine.
4. Palestinian Anti-Corruption Commission Annual Report for 2021.
 5. The Coalition for Integrity and Accountability-AMAN, 2023. Report on Compliance of Political Officials in Palestine with Regulations on Conflicts of Interest Disclosure, Gift Acceptance, and Financial Disclosure. Ramallah-Palestine.
 6. The Eighth Annual Report on Complaints in Government Departments for the Year 2020.
 7. The Annual Report of the High Judicial Council for the year 2021.
 8. The Eleventh Annual Report of the Public Prosecution for the year 2020.
 9. Coalition for Accountability and Integrity (AMAN). 2022. Palestinian Security Sector and Political Integrity. Ramallah-Palestine.
 10. The Coalition for Accountability and Integrity(AMAN), 2022. Legal Paper on: Activating the Right of the Civil Society Organizations Concerned with Combatting Corruption to File Lawsuits in Corruption Cases. Ramallah-Palestine.
 11. Palestinian Capital Market Authority Annual Report for 2021.
 12. The Coalition for Accountability and Integrity(AMAN), 2022. The Integrity, Impartiality, and Independence of the Work and Decisions of the Supreme Constitutional Court. Ramallah-Palestine.
 13. The Coalition for Integrity and Accountability-AMAN, 2022. Civil Team for enhancing Public Budget Transparency, Semi-Annual Report of the Public Budget 2022. Ramallah-Palestine.
 14. The Coalition for Accountability and Integrity(AMAN), 2018. A paper entitled Part-Time Work and Public Positions, an Approach to Conflict of Interest. Ramallah-Palestine.
 15. The Coalition for Integrity and Accountability-AMAN, 2018. Updated Parallel Report on Palestine's implementation of Sustainable Development Goal 16 (SDG16). Ramallah-Palestine.
 16. The Coalition for Accountability and Integrity(AMAN), 2023. A Paper on: Criminalizing Acts of Corruption in the Palestinian Private Sector. Ramallah-Palestine.
 17. The Coalition for Accountability and Integrity(AMAN), 2022. A Paper entitled "The Impact of Appointment of Members and Heads of Local Bodies Councils on Political Integrity". Ramallah-Palestine.

Fourth: Opinion polls

1. The Coalition for Accountability and Integrity(AMAN), 2022. The Public Opinion Poll on Corruption and Anti-Corruption Efforts. Ramallah-Palestine.

Fifth: National plans

1. The National Development Plan (Public Policies) 2021-2023.
2. The National Strategic Plan for Civil Service 2021-2023
3. The National Cross-Sectoral Strategy for Integrity and Anti-Corruption 2020-2022.

Sixth: Official websites

1. Palestinian Anti-Corruption Commission (PACC) www.pacc.ps
2. The State Audit and Administrative Control Bureau (SAACB) <https://saacb.ps>
3. Palestine Monetary Authority (PMA) www.pma.ps
4. Palestinian Capital Market Authority (PCMA) www.pcma.ps
5. Financial Follow-up Unit (FFU) www.ffu.ps
6. Council of Ministers www.palestinecabinet.gov.ps

AMAN
Transparency Palestine



AMAN was established in 2000 as a civil society organization that seeks to combat corruption and promote integrity, transparency and accountability in the Palestinian society. The Coalition was first formed by an initiative from a number of civil society organizations working in the field of democracy, human rights and good governance. In 2006, the Coalition was accredited as a national chapter for Transparency International.

AMAN is a Palestinian think tank and a specialized body providing knowledge on corruption at the local and regional level through producing specialized reports and studies. The periodic publications include: The annual Integrity and Anti-Corruption Report, the annual Palestinian Integrity Index and the National Integrity System studies and reports, in addition to the Coalition's continued contributions to produce reports and studies on the status of corruption in the Arab region.

As part of the global anti-corruption movement - and of international alliances and partnerships with relevant specialized coalitions and organizations - AMAN plays a key role in the transfer and contextualization of necessary international knowledge and tools to combat corruption in all sectors.

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