

# Syria: Laws Allow the Ministry of Finance to Seize Syrians' Property



10 February 2022

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*Extrajudicial seizure of Syrians' property constitutes a flagrant  
violation of the 2012 Syrian Constitution*

Precautionary seizure is a legal procedure whereby the judiciary freezes movable and immovable property of the depositor including, for example, money, real estate, cars, stakes or shares in companies, to prevent him/her from disposing of it. This procedure is taken when the depositor is suspected of owing debts to the benefit of individuals or official bodies involved in money laundering or terrorism financing. Legally, the precautionary seizure must be imposed by competent courts under reasoned judicial rulings. However, since 2011, the Ministry of Finance has become an executive arm that can impose precautionary seizures without a judicial decision or even legal basis.

## **Explanations and Justifications by the Ministry of Finance**

On 24 November 2021, the Ministry of Finance of the Syrian government in Damascus published on its [official website](#) an explanatory statement explaining the legal basis on which the Minister of Finance is allowed to impose precautionary seizures on accounts of Syrian depositors, with a view to protect public funds, combat money laundering, and fight terrorism.

The Ministry of Finance commented in its statement on the Facebook posts criticizing its seizure laws. The posts cited provisions of the Bank Secrecy Act No. 29 of 2001, specifically its Article 5, which stipulates that the Ministry of Finance cannot impose precautionary seizure on funds and assets deposited in banks except under written permissions of their depositors or under final judicial rulings confirming rights owed by depositors in favor of public and private entities. However, the Ministry of Finance stated that the Bank Secrecy Act No. 29 of 2001 had already been repealed.

The Ministry of Finance's statement also drew attention to the fact that [Legislative Decree No. 30 of 2012](#) on bank secrecy is currently in force after the suspension of Legislative Decree No. 24 of 2005. By this, the Ministry of Finance justified its extrajudicial precautionary seizures on financial accounts, which in fact violates the country's constitution.

## **The Difference Between Judicial and Administrative Precautionary Seizure**

Legally, a precautionary seizure must be issued by competent courts under reasoned judicial rulings.

However, contrary to the 1953 Procedures Law and its 2016 amendments, some ministries have been granted the ability to place precautionary seizure, which is known as administrative precautionary seizure, as distinct from precautionary seizure by judicial order. Legislative Decree No. 177 of 1969 authorized the Minister of Finance to impose a precautionary seizure of the funds of employees and accountants who detriment public funds. This authority was expanded to include movable and immovable funds belonging to the wives of these employees and accountants. This differs from judicial seizure, which only targets the property of the person concerned.

Granting the executive authority, represented by the Minister of Finance, and the Central Commission for Inspection and Control<sup>1</sup> the power of administrative precautionary seizure of the property of debtors and that of their wives breaches the concept of independent financial

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<sup>1</sup> Its task is to investigate offences committed by state employees, foremost among which are offences related to corruption.

liability of spouses and separation of powers principle, established by the 2012 Syrian constitution in force, and encroaches on the competence of the judiciary.

## **No Prosecutorial Options Available for those Affected by Administrative Precautionary Seizure Decisions**

Paragraph (d) of Article 323 of the Syrian Civil Procedure Law – amended under No. 1 for the year 2016 – enables debtors to file lawsuits to release their property from precautionary seizure. Lawsuits should be filed within eight days starting from the completion of investigating the debtor's case or from his referral to jurisdiction by the disciplinary board, not from the date of the commencement of the seizure.

The interim relief judge is the only one competent to hear claims for lifting or limiting the attachment on the debtors' property. Debtors present the necessary documents to the interim relief judge who, in turn, considers their cases and decides them within twenty-four hours at most.

Investigating administrative precautionary seizure cases is a non-public procedure undertaken within the Ministry of Finance or its branches. Thereby, those affected by this type of seizure usually cannot know the investigation completion date and thus cannot review decisions on their cases before courts.

However, in practice, courts do not hear and even reject the claims for lifting administrative precautionary seizures decided by the Minister of Finance or the Central Commission for Inspection and Control under the following justifications:

1. The courts consider the seizure decisions by the Minister of Finance as a part of the anti-corruption policy. Thus, the judicial system refutes claims challenging those decisions so as not to enable the suspects to transfer or smuggle their funds. This justification is outside the standard rules, as the judiciary's task in such cases is to consider the eligibility of the Minister of Finance's seizure decisions without bias.
2. The Minister of Justice, who is a member of the executive branch, is the one who has the power to appoint, transfer and dismiss judges, in accordance with Article 65 of Judicial Authority Law. This fact has led to apprehension among judges that the Minister of Justice may take retaliatory actions against them if they decide to lift the administrative precautionary seizures ordered by the Minister of Finance.

In theory, the Syrian Law allows for filing for judicial review of the Minister of Finance's precautionary seizure decisions. However, in practice, the cases are not considered because of the executive authority's infringement on the mandates of the judiciary in Syria.

## **What are the exceptions to Legislative Decree No. 30 of 2010 that the Ministry of Finance relies on to justify its provisional seizures?**

Legislative [Decree](#) No. 30 of 2010, known as the "Bank Secrecy Act", ensures the clients/depositors' anonymity and protects their accounts, assets, and their transactions with financial institutions, such as banks. The Bank Secrecy Act prohibits disclosing this information to any entity; governmental or non-governmental (Article 2). However, the same Law stipulates exceptions to the right of banking secrecy in Article 7, which states:

“In no case shall a precautionary seizure be imposed on the accounts and assets held at the financial institutions unless under a decision compatible with the laws and regulations in force to protect public money or the laws and regulations in force related to combating money laundering and terrorist financing.”

This Article authorizes the Minister of Finance to impose precautionary seizures on depositors' funds with no judicial control in case the seizure was prompted by, for example, protecting the public treasury, combating money laundering, or preventing terrorism financing. However, these causes are broad and can be used for political ends with ease.

In suspicion of money laundering or terrorism financing the Syrian's combating money laundering and Terrorism Financing Body has the right to lift bank secrecy on the suspects' accounts and to freeze their funds and assets by sending a letter to the Minister of Finance asking him to order the imposition of administrative precautionary seizure.

### **Consequences of the Administrative Precautionary Seizure**

The seriousness of the matter lies in the fact that deciding the Administrative Precautionary Seizure based on the Anti-money Laundering Act (paragraph (e) of Article 9 of the Syrian Legislative Decree No. 33 of 2005) can depend only on suspicion; means without strong evidence or a court ruling. This places the depositor at the mercy of non-judicial executive bodies.

Consequently, the executive authority can take advantage of this loophole to impose precautionary seizure to punish or take reprisals against specific people, such as opponents of the Syrian government. Moreover, in some cases, the executive authority takes money from debtors, including businesspersons, in exchange for removing their names from the list of “suspects” at the Anti-Money Laundering Authority and the Ministry of Finance.

According to the Syrian Civil Procedure Law, people aggrieved by administrative precautionary seizures can file complaints to the competent judicial authority within eight days from the date of the seizure decision. However, most of those aggrieved by administrative precautionary seizures are internally and externally displaced Syrians who cannot access the courts for failing to obtain security clearances required for retaining lawyers.

Finally, precautionary seizure violates the 2012 Syrian Constitution in force, specifically its Article 15 that states:

“Collective and individual private ownership shall be protected in accordance with the following basis:

1. General confiscation of funds shall be prohibited;
  - a. Private ownership shall not be removed except in the public interest by a decree and against fair compensation according to the law;
  - b. Confiscation of private property shall not be imposed without a final court ruling;
  - c. Private property may be confiscated for necessities of war and disasters by a law and against fair compensation.
2. Compensation shall be equivalent to the real value of the property.”



## **Recommendations**

1. The civil judiciary should be the only authority entitled to impose, lift, and limit precautionary seizures. In the event the executive authority has strong suspicion or evidence of the involvement of someone in terrorist financing or money laundering issues, then it has the right to apply to the urgent judiciary to impose precautionary seizure on his/her funds. Here, it is important to recall the need to release the judiciary from the hold of the executive authority through making radical amendments to the Syrian Constitution and the Judicial Authority Act.
2. To protect the right of individuals to control their property and savings in accordance with the 2012 Syrian Constitution in force. Thereby, the executive authority and its bodies should be restricted from accessing information of individuals' financial accounts and thus from imposing precautionary seizures without obtaining written consents from depositors or under judicial rulings.
3. To repeal articles of some laws that allow the executive authority to confiscate money and property or make administrative precautionary seizures, such as Article 7 of Law No. 30 of 2010, known as the Banking Secrecy Law, as well as paragraph /e/ of Article 9 of Syrian Legislative Decree No. 33 of 2005 on combating money laundering.
4. To repeal Article 11 of Anti-Terrorism Law No. 19 of 2012, which allows the competent attorney general or his/her authorized representative to order the freezing of movable and immovable funds of anyone who commits a crime related to financing terrorist acts or committing one of the crimes stipulated in this law.
5. To cancel the circulars related to the necessity of obtaining security approvals to regulate foreign agencies, especially Circular of the Syrian Minister of Justice No. 689 of 12 October 2017.



## About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



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