

# GUIDE FOR THE LEBANESE CITIZEN ON

# CIVIL JUSTICE



# CIVIL JUSTICE SYSTEM

The Lebanese judicial authorities or what is known as Lebanese courts are numerous, and are classified in two categories composed of many subcategories.

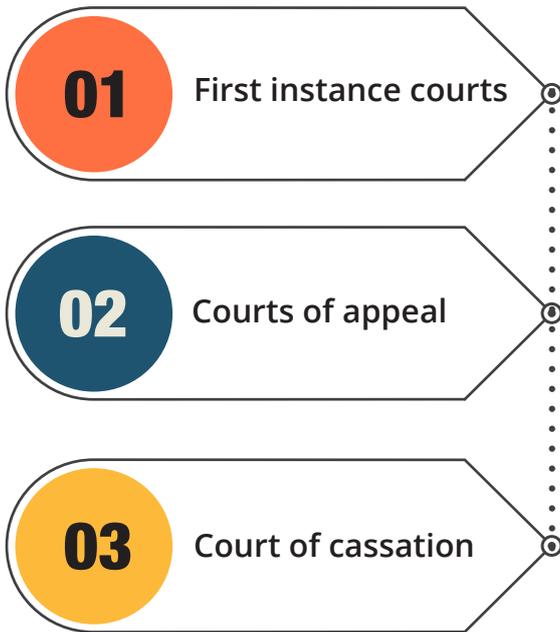


The first category deals with administrative justice specialized in disputes to which the State, the municipalities or the public institutions are party and the second deals with the judiciary system that is specialized in disputes arising between individuals and the rest of the private law entities such as companies, associations, trade unions, etc.

The judiciary system is composed in principle of a criminal justice specialized in prosecuting and punishing crimes and a civil justice. The latter concerns the courts that examine cases arising from civil disputes in their widest sense, i.e. those that are rules by civil, real estate, trade, rental and other issues and aim at compensating for the damages and/or executing, terminating, revoking or canceling contracts i.e. rules and laws that have a criminal character.



Civil courts are grouped as follows:



*What is the role of civil justice? What is it composed of? What is its jurisdiction? What are the issues that are examined?*

All these are questions of concern for the citizen in addition to many other issues. Therefore, we will try in this booklet to do our best to answer these questions as well as other questions that are hard to be answered by the citizens, through the use of charts that facilitate and clarify the various ideas that it contains.

## I. FIRST INSTANCE COURTS

First instance courts are:

-  Sections ruling as a single judge
-  Chambers ruling as president and two members and called Trial chambers

### SECTIONS

Every section is composed of one single civil judge or more. Only second degree and higher degree judges can be appointed as single judges. If more than one single judge has been appointed in the same section, every single judge shall then be specialized in a certain type of cases. He/she shall for example be assigned the role of single civil judge in civil cases and the execution department shall be left to another single judge.

But in case one single judge is appointed for the whole section, the latter shall examine all civil cases lodged before him/her and which come under his/her competence, while taking care of the executive procedures related to this section.



*The executive department is the reference for executing judgments, decisions and orders issued by the courts, as well as official documents and other documents that are allowed by the Law and which include obligations that require some arrangements on funds or individuals for them to be executed.*



- *Sections = single civil judge.*
- *Judges are subject to the grading system. The judge and the trainee judge in his category shall be promoted 1 degree every two years without the need for a decree.*

## COMPETENCE OF THE SINGLE JUDGE:

According to Article 86 of the Code of Civil Procedures:

The single judge shall rule **exclusively** on the following civil and trade matters:

- Personal legal cases of no more than one hundred million Lebanese Pounds. Personal cases designate the cases that aim at protecting a personal right such as remedy for damages to immovable property (such as real estate) or movable property (such as goods) or cases lodged by the seller against the buyer for recovering the real estate price.
- Legal cases related to a movable or immovable property of a value not exceeding one hundred million Lebanese Pounds, such as claiming the delivery of a 80 million LBP worth car.
- Personal status cases except for issues related to citizenship, e.g. registration of the newborn; rectification of the name, surname or age; change of domicile, rite or religion...
- Requests of sharing out of succession provided there is no dispute about the designation of the heirs or the inventorying of inheritance.  
Here, the requests of sharing out of succession should be restricted to non-Muslims because requests of sharing out of succession for Muslims are part of the jurisdiction of the Sunni and Jaafari religious justice system as well as the Druze religious courts, unless the succession includes a State-owned property which in this case should be ruled by the single judge regardless of the religious denomination.
- Cases related to lease agreements of movable and immovable property as well as franchise agreements (franchise concerns businesses) regardless of the rent value.
- Cases related to occupation with all related requests and pleas.
- Cases of justice of urgent matters. For example, examining the requests of urgent measures in civil and trade matters when it is urgently needed or when there is imminent danger, or take the measures necessary for removing obvious violation of rights.
- Cases of possession such as action for recovery of real estate taken from the plaintiff, cases of prevention of attack on real estate possession.
- Cases of demarcation of boundaries. This means the cases in which the plaintiff requests the demarcation of the boundaries between his/her property and that of the defendant.
- Cases related to encumbrance rights such as the action of the right of way, the action of opening windows not shut off from light...
- Cases of prevention of violation of the right to irrigation. This means cases aiming at protecting the acquired rights for a certain person to irrigate his/her land, whether from spring water, river water or other sources.

## HOW ARE SECTIONS DISTRIBUTED?

**In principle, in every district (caza) there is one section.**

**But there might be exceptionally** more than one section in the same district. For example, in the caza of Batrun, there is one section in the center of the caza, i.e. the city of Batrun, composed of many single judges. While in the town of Duma (an area part of the Batrun caza), there is another section composed of one single judge examining all executory operations and all legal cases. Therefore, the caza of Batrun has two sections, which is an exception to the abovementioned general rule: one under the Court of Duma and one under the Court of Batrun.

In areas where there are multiple sections, i.e. multiple single judges, the tasks shall be distributed to the sections based on a proposal by the First president of the Court of appeal to which these sections belong and by virtue of a decision by the Minister of justice after the consent of the Higher Judicial Council.



*The distribution of tasks to sections means the determination of the category of legal cases that are assigned to each single judge; one would be assigned for example the personal status cases, another one the financial cases, then another for urgent matters, etc...*



## THE CHAMBERS:

The chambers or what is called Trial chambers, are composed of three judges: a president and two members.

The president of a chamber in any of the first instance courts shall have to be a judge from the fourth degree or above.

## THEIR COMPETENCE:

The Chamber is considered as an ordinary court with full jurisdiction in civil and trade matters. Relevant matters may only be excluded from this jurisdiction and transferred to another court by virtue of a specific text stipulating this. This means that the Trial chamber shall be competent in examining all cases mentioned in Article 86 LCCP, listed above and related to the single judge.

The Trial chamber has the competence to examine both cases with no fixed value and cases with a fixed value not exceeding one hundred million Lebanese pounds except for those that are already considered, by definition, as part of the jurisdiction of the single judge or that of a special tribunal.

## HOW ARE CHAMBERS DISTRIBUTED?

**In principle, in the center of each Governorate there is a trial chamber.**

**But there still are exceptions.** For example, in Mount Lebanon governorate, in addition to the chambers existing in Baabda the center of the Governorate which covers the areas of Baabda, Chouf and Alay, there are chambers in the area of Jdeidet el Metn that covers the cazas of Metn, Keserwan and Jbeil.

The first instance court is composed of many chambers and the tasks are also distributed to the chambers based on a proposal made by the first president of the Court of appeal to which these chambers belong, and by virtue of a decision by the Minister of justice after the consent of the Higher Judicial Council. Each chamber is assigned a specific type of cases. For example, one chamber deals with financial cases, another examines trade cases, etc.

How many first instance courts are there? What are their sections, chambers, centers, jurisdiction and the number of judges in each one of them?

The answer to all these questions is presented in the following maps:

**First instance court of North-Lebanon Governorate:**

Center: Tripoli

Jurisdiction: North-Lebanon Governorate

● Chambers **6**

**21** (a president, two members for each chamber and three additional members)

● Sections **39**

Center	Jurisdiction	Number of judges
<b>18</b> in Tripoli	Caza of Tripoli	<b>18</b> (a single judge per section)
<b>7</b> in Halba - Akkar	Caza of Akkar	<b>7</b> (a single judge per section)
<b>4</b> in Zghorta - Ehden	Caza of Zgharta	<b>4</b> (a single judge per section)
<b>2</b> in Bsharreh	Caza of Bsharreh	<b>2</b> (a single judge per section)
<b>2</b> in Amyoun	Caza of Kura	<b>3</b> (a single judge per section)
<b>3</b> in Batrun - Duma	Caza of Batrun	<b>3</b> (a single judge per section)
		<b>3</b> (real estate judges in the center of the Governorate)

**First instance court of Beirut Governorate:**

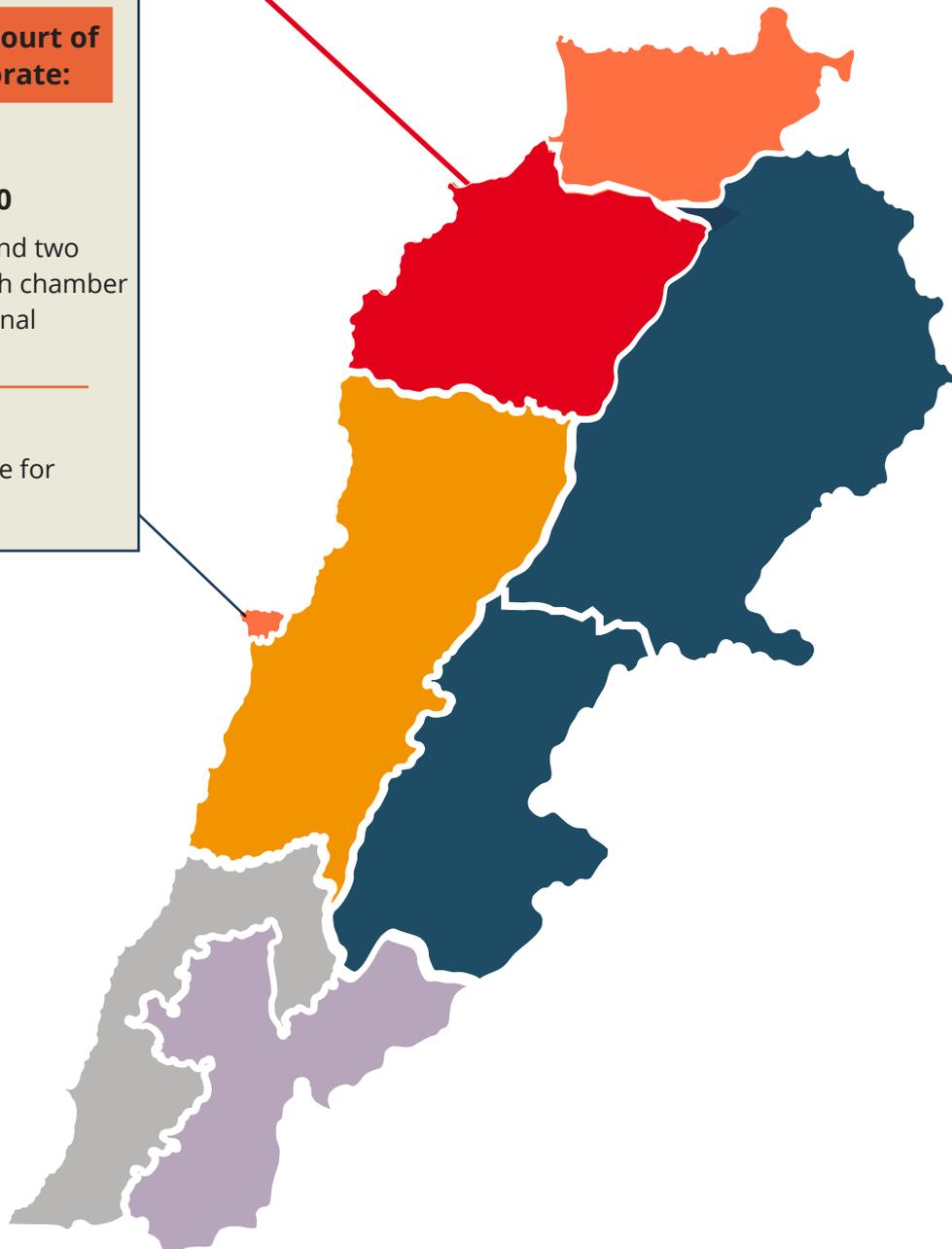
Center: Beirut

● Chambers **10**

**33** (a president and two members for each chamber and three additional members)

● Sections **55**

**55** (a single judge for each section)



● Sections **57**

<i>Center</i>	<i>Jurisdiction</i>	<i>Number of judges</i>
<b>15</b> in Baabda	Caza of Baabda	<b>15</b> (a single judge per section)
<b>15</b> in Jdeideh – Metn	Caza of Metn	<b>15</b> (a single judge per section)
<b>8</b> in Jounieh – Keserwan	Caza of Keserwan	<b>8</b> (a single judge per section)
<b>4</b> in Jbeil – Qartaba	Caza of Jbeil	<b>4</b> (a single judge per section)
<b>2</b> in Deir el Qamar	Deir el Qamar area	<b>2</b> (a single judge per section)
<b>2</b> in Baaklin	Baaklin area	<b>2</b> (a single judge per section)
<b>2</b> in Damour - Chehim	Damour area	<b>2</b> (a single judge per section)
<b>5</b> in Aley	Caza of Aley	<b>5</b> (a single judge per section)
<b>4</b> in the center of the governorate		<b>4</b> (real estate judges in the center of the Governorate)

**First instance court of Mount-Lebanon Governorate**

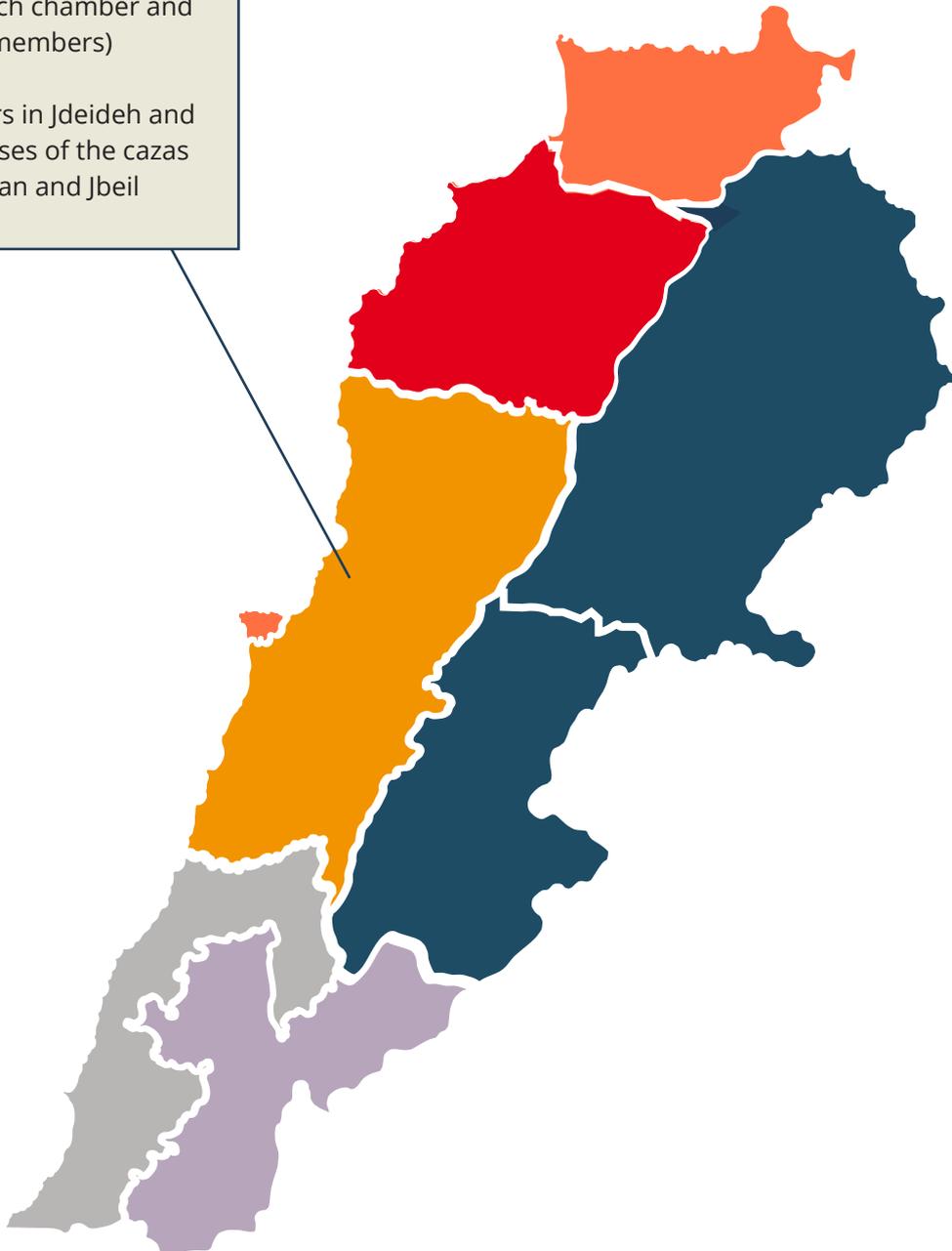
*Center: Baabda*

*Jurisdiction: Mount-Lebanon Governorate*

● Chambers **12**

**40** (a president and two members for each chamber and four additional members)

Has six chambers in Jdeideh and examines the cases of the cazas of Metn, Keserwan and Jbeil



**First instance court of Nabatiyeh Governorate**

*Center: Nabatiyeh*

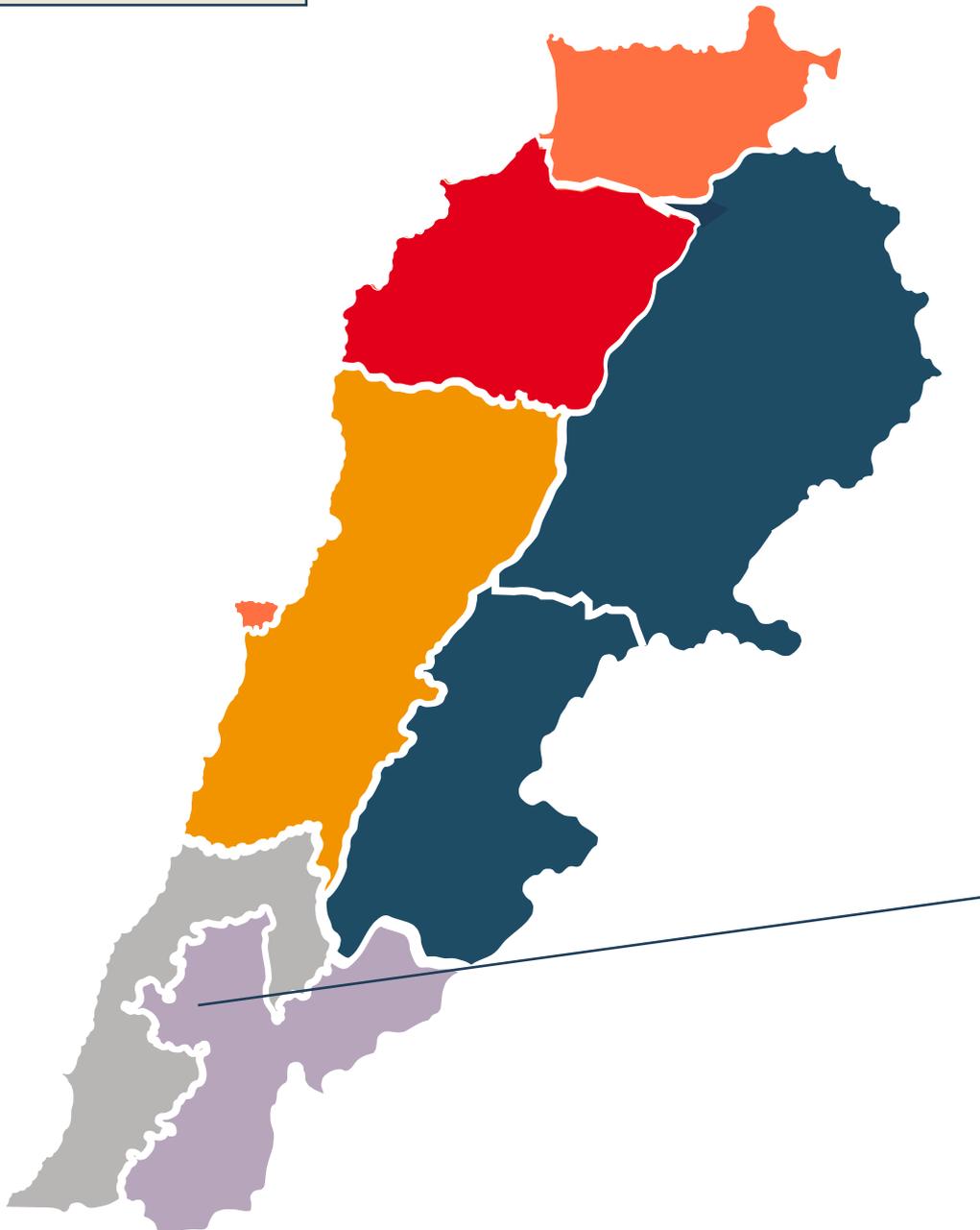
*Jurisdiction: Nabatiyeh Governorate*

● Chambers **4**

**13** (a president, two members for each section and one additional member)

● Sections **16**

<i>Center</i>	<i>Jurisdiction</i>	<i>Number of judges</i>
<b>6</b> Nabatiyeh	Caza of Nabatiyeh	<b>6</b> (a single judge per section)
<b>4</b> Bint Jbeil-Tebnin	Caza of Bint Jbeil	<b>4</b> (a single judge per section)
<b>2</b> Marjeyoun	Caza of Marjeyoun	<b>2</b> (a single judge per section)
<b>2</b> Hasbaya	Caza of Marjeyoun	<b>2</b> (a single judge per section)
		<b>2</b> (a real estate judge in the center of the Governorate)



● Sections **18**

*Center*

**10** in Saida  
**4** in Tyre Jowaya  
**2** in Jezzine

*Jurisdiction*

Caza of Saida  
 Caza of Tyre  
 Caza of Jezzine

*Number of judges*

**10** (a single judge per section)  
**4** (a single judge per section)  
**2** (a single judge per section)  
**2** real estate judges in the center of the Governorate

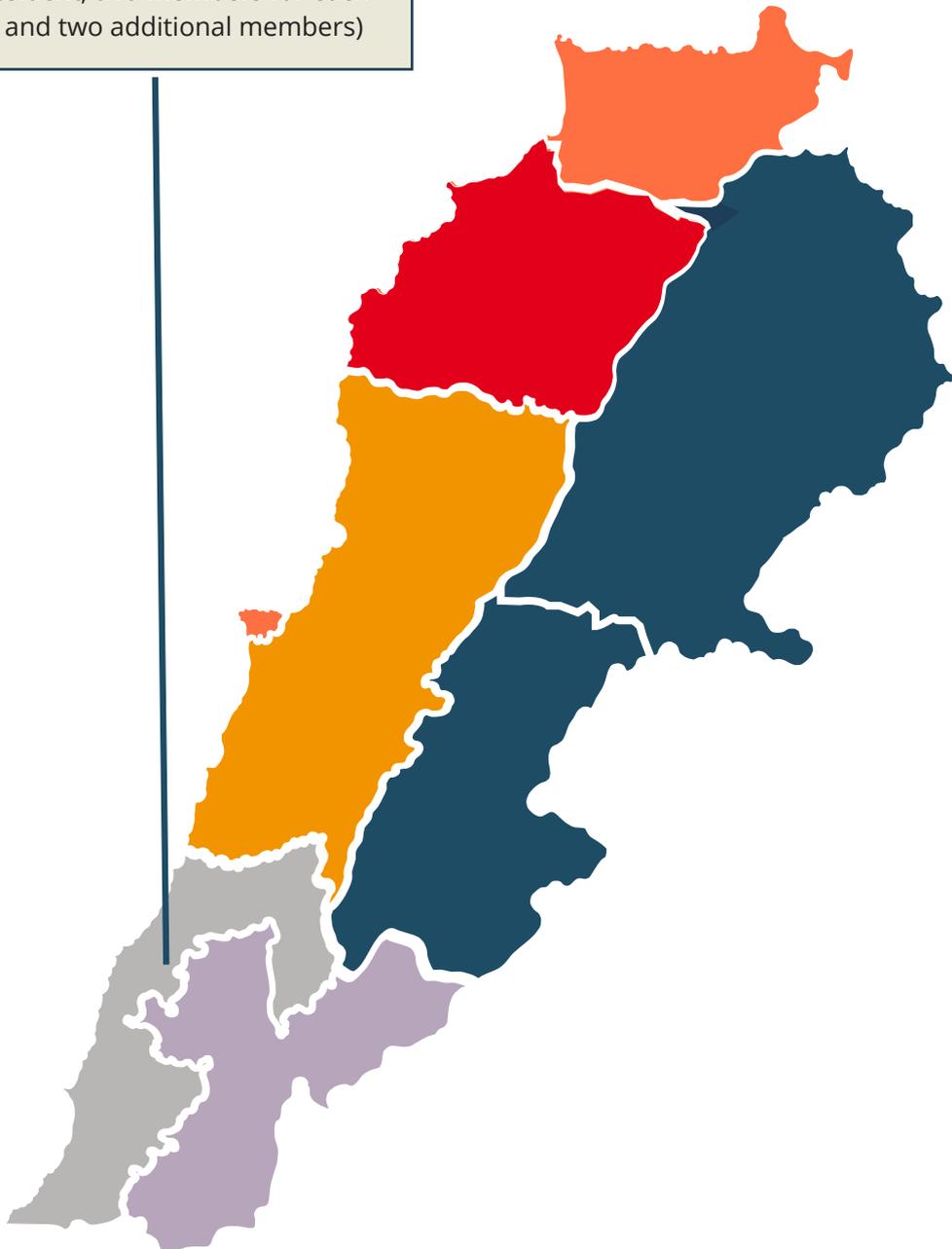
**First instance court of South-Lebanon Governorate (Saida)**

*Center: Saida*

*Jurisdiction: South-Lebanon Governorate*

● Chambers **4**

**14** (a president, two members for each chamber and two additional members)



● Sections **32**

<i>Center</i>	<i>Jurisdiction</i>	<i>Number of judges</i>
<b>12</b> in Zahleh	Caza of Zahleh	<b>12</b> (a single judge per section)
<b>4</b> in Jebjennin – Saghbin	Caza of Western Bekaa	<b>4</b> (a single judge per section)
<b>8</b> in Baalbeck – Deir el Ahmar	Caza of Baalbeck	<b>8</b> (a single judge per section)
<b>3</b> in Rachaya	Caza of Rachaya	<b>3</b> (a single judge per section)
<b>3</b> in Hermel – RasBaalbeck	Hermel area	<b>3</b> (a single judge per section)
		<b>2</b> (a real estate judge in the center of the Governorate)

**First instance court of Bekaa Governorate**

*Center: Zahleh*

*Jurisdiction: Caza of Zahleh and the Western Bekaa*

● Chambers **3**

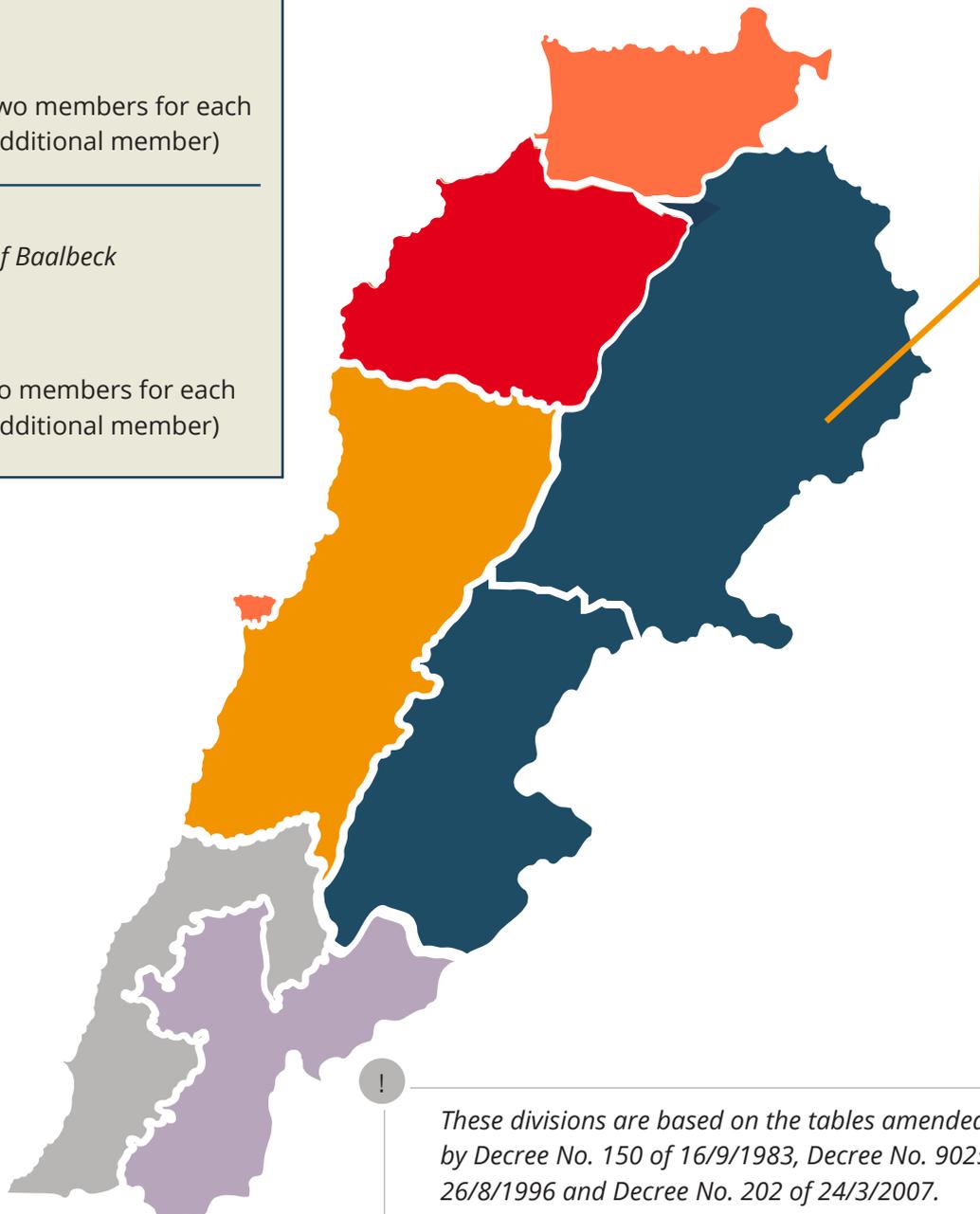
**10** (a president, two members for each chamber and an additional member)

*Center: Baalbeck*

*Jurisdiction: Caza of Baalbeck*

● Chambers **2**

**7** (a president, two members for each chamber and an additional member)



*These divisions are based on the tables amended by Decree No. 150 of 16/9/1983, Decree No. 9025 of 26/8/1996 and Decree No. 202 of 24/3/2007.*

## 2. COURTS OF APPEAL

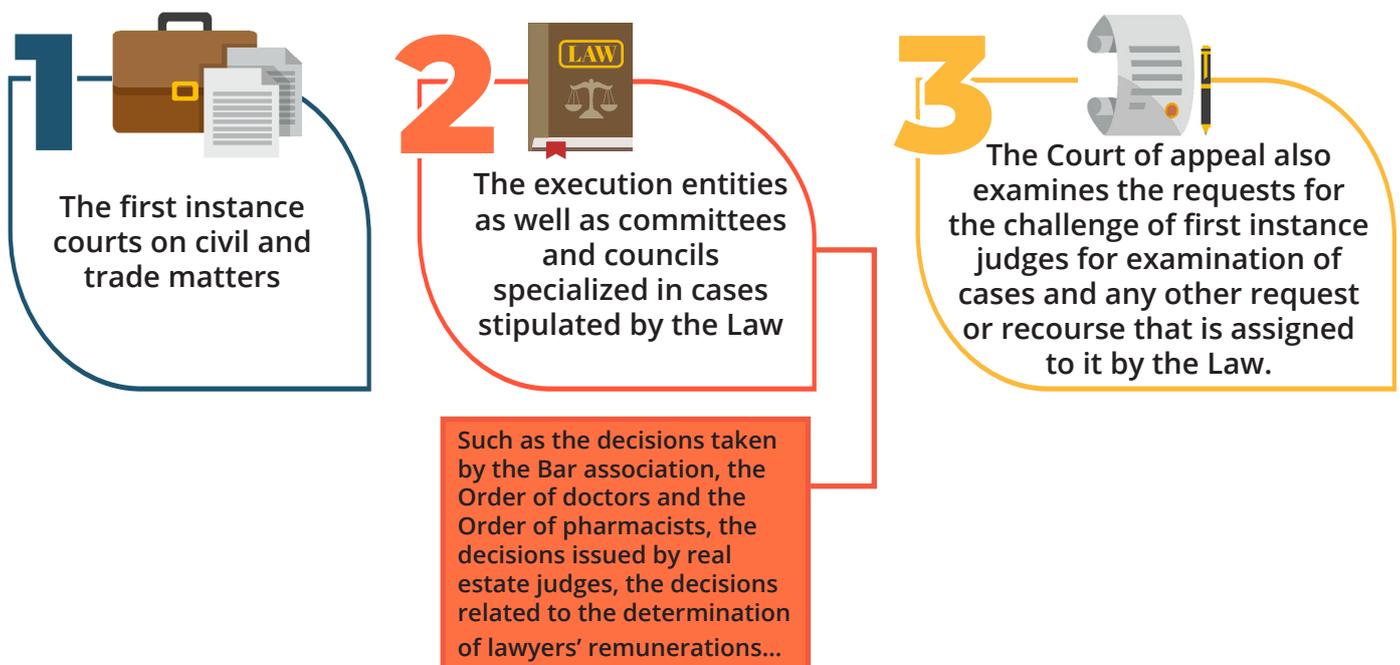
Any person who has lost the court case, partly or fully, before the first instance court, may appeal before the Court of Appeal. Appeal is one of the ordinary means of contest that is presented to the second degree court (i.e. the court of appeal) in view of canceling or amending a verdict issued by the first instance court. Appeal is the application of the principle of two-degree proceedings, and needs, for its application, to have the first instance judgment suspended for the whole period of examination, unless this first instance judgment is for expeditious execution.

**The courts of appeal are divided into chambers; each chamber is composed of a president and two judges of appeal.**

Only sixth degree and higher degree judges can be appointed as a president of chamber before the Court of appeal. Only fourth degree and higher degree judges can be appointed as judges of appeal.

### THEIR JURISDICTION:

The Court of appeal examines the recourses for appealable judgments and decisions that are pronounced within its jurisdiction area and by the following entities:



The appeal evokes again the case judged, before the Court of appeal for reconsideration de facto and de jure, and this is the devolutive effect of the appeal.

### HOW ARE COURTS OF APPEAL DISTRIBUTED?

**In principle, there is a court of appeal in the center of each governorate, with a few exceptions such as the courts of appeal of Jdeidet el Metn.**

For example, the courts of appeal of Beirut situated in the Justice Palace of Beirut examine the appeal against the decisions stemming from first instance courts in Beirut, i.e. decisions and judgments issued by trial chambers and single judges in Beirut.

Tasks are distributed to chambers in the same court of appeal based on the proposal of the first president of the Court of appeal, by virtue of a decision by the Minister of Justice after the consent of the Higher Judicial Council.

How many courts of appeal are there and what are their centers, jurisdiction and the number of chambers in each one of them?

The answer to all these questions is presented in the following tables:

### The Court of appeal of North-Lebanon Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Tripoli	North-Lebanon	10	10 including first president	20	3	1	8	1	8	51

### The Court of appeal of Beirut Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Beirut	Beirut Governorate	15	15	30	2	1	5	1	6	60

### The Court of appeal of Mount-Lebanon Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Baabda	Mount-Lebanon	18	18 including first president	36	4	1	9	1	9	78

Nine chambers are located in Jdeideh and examine the appeal of civil and penal cases for the cazas of Metn, Keserwan and Jbeil.

## The Court of appeal of South-Lebanon Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Saida	South-Lebanon	6	6 including first president	12	2	1	4	1	4	30

## The Court of appeal of Bekaa Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Zahleh	Bekaa	8 (1)	8 including first president	16	3	1	5 (2)	1	5 (3)	39

(1)

It has three chambers including in Baalbeck and examines the appeal of civil and penal cases; one of them undertakes the tasks of the Court's indictment section for the judge of Baalbeck and Hermel.

(2)

Two of them are based in Baalbeck.

(3)

Two of them are based in Baalbeck.

## The Court of appeal of Nabatiyeh Governorate

The center	Jurisdiction	Number of chambers	President	Appeal judge	Additional appeal judge	Attorney General	Counsel for prosecution	First examining judge	Examining judge	Total judges
Nabatiyeh	Nabatiyeh	4	4 including first president	8	2	1	3	1	3	22

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!! These divisions are based on tables amended by Decree No. 9025 of 1996/8/26 and Decree No. 202 of 2007/3/24.

### 3. COURT OF CASSATION

In the past, the appellation of the Court of cassation in Arabic was changed by virtue of Decree law no 22 of the 1985/3/23.

Any person who lost the appeal, partly or in full, may, by means of cassation, object to the appeal decision before the Court of cassation, since the latter is the highest court in the judicial system. Article 24 of the Law on the judicial system stipulates that: "at the head of all judicial courts, a supreme court which is the court of cassation and its seat is in Beirut".

It is worth noting that cassation does not constitute a third degree of prosecution. The Court of cassation is – by its nature – the safeguard of the Law and shall only practice its control as far as legal issues are concerned.

**Its role is strictly restricted to controlling the compliance of the decision issued by the Court of appeal with the Law, which means checking whether this court has applied in its full authority the Law to the facts that are evidenced.**

However, the Law allows the Court of cassation, in case it overrules the appealed decision (i.e. in case the Court of cassation has accepted the appeal made before it for availability of the required formal conditions and occurrence of one or all of the grounds for cassation), to reexamine the case according to the procedures in force at the Court of appeal, which is the right to reexamine the case de facto and de jure.

The Court of cassation is composed of 10 chambers, one for each type of cases (real estate, trade, financial...). Each chamber issues its decisions in a board composed of three judges: **a president and two cassation judges.**

Only tenth degree and higher degree judges can be appointed as presidents of chambers. And only eighth degree and higher degree judges can be appointed as cassation judges.

#### THE COURT'S JURISDICTION:

The civil chamber looks into the following commercial and civil cases:

1.

Request of cassation of absolute decisions delivered by the courts of appeal in civil and trade matters.

2.

Requests of transfer from a court to another court of the same instance if the constitution of the court general board is impossible due to insufficient number of judges available, incapacity of the Court to function for reasons of force majeure or in case one of the litigants is a relative by blood or by marriage up to fourth degree in horizontal or vertical progeny, to the single judge or two of the members of the Court general board or the Court president, or if there is a justified suspicion as to the neutrality of the Court or the preservation of public security.



It is worth noting that in order to allow for objection through cassation, the Law requires that one of the grounds for cassation mentioned exclusively in Article 708 of the Code of Civil Procedures should be met; these grounds are:

Breach of the rules of functional or qualitative competence.

Breach of the law or error in the interpretation or the application of the law. The petitioner should present the legal text, principle or rule subject of the breach or the error of interpretation or application, as well as the forms of breach or error.

Contradiction in the paragraph stating the judgment in the same decision, which renders its execution impossible.

Omission of decision about one of the requests.

Loss of legal ground for the decision subject to cassation because its factual reasons are not sufficient or not clear enough to attribute the appropriate legal solution for it.

Decision to grant what has not been requested by the litigants or more than they have requested.

Contradiction between two judgments rendered in last degree in the same case by two different courts or by one court.

Distortion of the content of the documents by mentioning facts contrary to those mentioned or contrary to the clear and explicit meaning of their text.



## WHAT IS THE COMPETENCE OF THE FIRST PRESIDENT OF THE COURT OF CASSATION?

The Court of cassation is chaired by a first president who is appointed by a decree delivered by the Council of ministers based on a proposal by the Minister of Justice. Only fourteenth degree and higher degree judges can be appointed as first president of the Court of cassation.

In addition to this function, the First president of the Court of cassation chairs one of the chambers of the Court of cassation, and may chair any other one of these chambers.

**The First president of the Court of cassation may, by virtue of Article 26 of the Law on the judiciary as far as the Court of cassation is concerned, exercise the financial and administrative prerogatives usually assigned by the rules and regulations to ministers, except for the constitutional prerogatives.**

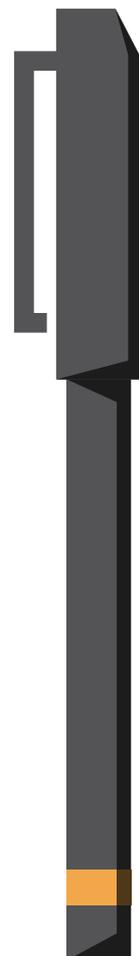
Based on that, he/she shall distribute the tasks to the Court chambers and verify the good functioning and management of the work in the different Court departments. In case any of the judges is absent or is incapable of executing his/her functions for whatever reason, the First president of the Court of cassation may delegate another judge to replace him/her.

The president shall also submit to the Higher Judicial Council for discussion and adoption, by virtue of Article 29 of the same Law, an annual report at the beginning of each judicial year about the situation and actions of the judicial courts during the previous year and about the major decisions delivered by the Court of cassation, then the report is to be referred to the Minister of Justice.

In addition to that, the First president of the Court of cassation shall express any legislative, regulatory and administrative proposals he/she deems in the interest of the judicial system.

The First president of the Court of cassation chairs, besides the Court of cassation:

- The Higher Judicial Council
- The Justice Council
- The General board of the Court of cassation
- The Supreme Council for the prosecution of the presidents and ministers
- The disciplinary board for judges
- The dispute settlement tribunal, alternating with the President of the State Council.



The Court of cassation includes a general assembly called General Board of the Court of cassation.

## THE GENERAL BOARD OF THE COURT OF CASSATION:

The General Board of the Court of cassation is composed of:



- **The First president,**

and if this is not possible, the President of the next higher chamber, and in case of many presidents of equal degree chambers, the seniority principle shall be applied. However, if many presidents of chambers are equal in terms of both chamber degree and seniority, then the criterion of the oldest of age shall be considered.



- **The presidents of the chambers at the Court of cassation,**

and they shall be considered as members of the General Board.

## THE GENERAL BOARD COMPETENCE:

The General Board of the Court of cassation shall look into:

01

The actions lodged against the State as to responsibility stemming from the actions of the judicial judges; which means whenever the judicial judge commits a mistake that a judge dealing with his/her usual interest obligations should not commit.

02

Any case the resolution of which raises a major legal principle or which could open the door for contradiction with previous judgments, in this situation, the case is referred based on a decision by the Chamber examining the case. For example: the principle of rotation, so the General Board of the Court of cassation shall announce a new solution or a transformation in the jurisprudence.

03

Requests for the appointment of the reference when there is a positive or negative difference as to the competence:

- a - between two judicial courts
- b - between a judicial court and a religious court or a sectarian court
- c - between a religious court and a sectarian court
- d - between two different religious courts or sectarian courts

04

In the objection to a final decision issued by a religious or sectarian court for absence of jurisdiction of this court or for violation of substantial rules related to the general order. For example, violation of substantial rules related to the general order through breach of the right to defense, the constitution of the court in a way contrary to the procedures or breach of the notification procedures...

05

In the call for cassation of the judgments for the sake of the Law as presented by the Prosecutor to the Court of cassation.

In addition to this, the General Board of the Court of cassation may designate the competent authority to examine the case in the following situations:

**01** If one of the courts has declared its non-competence in examining the case by virtue of a decision that has acquired an absolute nature, with no other competent court available.

**02** If a case is lodged before two or more different courts and each one of them has declared its competence or not by virtue of a decision that has acquired an absolute nature



*Decisions that have acquired an absolute nature are decisions that are not or no longer disputable through the usual means of dispute (Article 553 LCCP), and the usual means of dispute are objection and appeal (Article 630 of the LCCP).*

Therefore, in each of the abovementioned cases, the General Board of the Court of cassation and not one of its chambers shall be competent in this regard.

Moreover, it would be useful to evoke the issue of Public Prosecution at the Court of Appeal and at the Court of Cassation and the role they sometimes play in civil prosecutions.

## THE PUBLIC PROSECUTION AT THE COURT OF APPEAL AND AT THE COURT OF CASSATION:

The public prosecution at the Court of appeal and at the Court of cassation plays a major role in the civil judiciary system. The Court of appeal and the Court of cassation have both their public prosecution.

- The public prosecution may prosecute and intervene in the civil legal case if there is a legal text that foresees this; legal text does not necessarily mean a law, it can be any legal rule whether appearing in a regulation, a decree or a law.

- The public prosecution may prosecute and intervene in civil legal cases that concern public order.



Public order is all bases, pillars and rules that protect the highest interests of the society as well as its existence, and without which this entity cannot remain stable and safe.

*An example of the violation of general order (attack against personal freedom, freedom of opinion and others, violating the rules of free economy, a Muslim man taking more than four wives, and a Christian man marrying more than one woman...).*

It is worth noting that Public prosecution enjoys wide scope authority over estimating the degree of breach of public order by the issue at stake.

01

The Public prosecution may intervene in cases lodged against the State as to the responsibility stemming from the judges' actions.

02

The Public prosecution may intervene when there is a need to name the reference court i.e. the competent court whenever there is dispute over competence between judicial authorities.



In addition, the issue of real estate judicial system must also be tackled as this is also part of the civil justice system.

## REAL ESTATE JUDICIAL SYSTEM:

The real estate judicial system in Lebanon is divided into three categories:



To be more precise, let us examine each category separately.

### 1- THE SINGLE JUDGE

This is the same as described above. This is the judge examining real estate cases, please refer back to the relevant section to avoid being repetitive.

Concerning the competence of the civil single judge as to examining real estate cases exclusively:

- ✓ A single judge examines cases related to movable and immovable properties not exceeding one hundred million Lebanese pounds of value. Therefore, in case the value of the disputed real estate exceeds 100 million LBP the First instance court shall be competent.
- ✓ The single judge looks into cases related to encumbrances of whatever value.
- ✓ The single judge looks into cases of demarcation of boundaries, of whatever value.

### 2- THE REAL ESTATE JUDGE

The position of the real estate judge is different from that of the civil single judge who examines real estate cases.

#### THE REAL ESTATE JUDGE'S COMPETENCE:

- ✓ The real estate judge is notified of the decision to start the demarcation and registration works, so he/she supervises them.
- ✓ As soon as the decision to start the demarcation and registration works has been issued, the competence as to the real estate cases situated in the area covered by the decisions shall move to the competence of the real estate judge.



*The decision to start the demarcation and registration works: the real estate register does not cover for the time being all real estates in Lebanon; some real estates are still not mapped and not registered in the Real estate registry. So the decision to start demarcation and registration works is the one that foresees to undertake a census and an inventory of the real estates that are not mapped in a certain area and demarcate their boundaries while stating the rights they are subject to and submitting them to the Real estate registry system.*

Real estate judges in Lebanon are divided as follows:

-  **One real estate judge in the center of North-Lebanon Governorate** whose jurisdiction covers all cazas of the Governorate i.e. the cazas of Tripoli, Akkar, Bsharreh, Zghorta, Kura, Batrun, and Minieh – Danieh.
-  **One real estate judge in the center of South-Lebanon Governorate** whose jurisdiction covers the cazas of Saida, Tyre and Jezzine.
-  **One real estate in the center of Mount-Lebanon Governorate** whose jurisdiction covers the cazas of Baabda, Metn, Keserwan, Alay and the area of Damur-Shehim, Deir el Qamar and the area of Baaklin and Jbeil.
-  **One real estate judge in the center of the Bekaa Governorate** whose jurisdiction covers all cazas of the Governorate: Hermel, Rashaya, Zahleh, Western Bekaa, and Baalbeck.
-  **One real estate judge in the center of Nabatiyeh Governorate** whose jurisdiction covers the cazas of Nabatiyeh, Marjeyoun and Bint Jbeil.

### 3- THE ADDITIONAL REAL ESTATE JUDGE

Article 3 of Decision No 1926/186 (Law on demarcation and registration of real estate property) after the amendments have been made, by virtue of Law no 98 of the 1999/6/18, has treated equally the real estate judge and the additional real estate judge as to the prerogatives granted to the real estate judge:

- **Undertaking demarcation and registration works**
- **The obligation to refer the real estate cases that come under the demarcation and registration area to the judge.**

But in addition to the abovementioned prerogatives, the additional real estate judge has the following powers:

**Explaining the decisions by the principal real estate judge:** according to the Lebanese jurisprudence, when the principal real estate judge undertakes demarcation and registration works his/her task ends with the end of these works and he/she shall no longer have to explain those decisions he/she had issued, but this task shall thus be the job of the additional real estate judge.

**Rectify the material mistakes:** Material mistakes mean those that occur during the demarcation and registration works such as an error in the mapping or the real estate records (like an error in the owner's name) and other errors.

This prerogative is granted to the additional real estate judge while another opinion considers this as a task to be assigned to the Court of first instance.

## WHAT ARE THE CONDITIONS THAT MUST BE MET TO FILE A CASE BEFORE THE CIVIL COURT?



### As far as the plaintiff is concerned:

The plaintiff can be a natural person (individuals) or a legal person (companies, unions, associations, municipalities and the state), Lebanese or foreign. In all these cases, the following conditions must be met:

**1 Interest:** It means the claim, benefit, purpose, or rights that the plaintiff seeks to obtain when filing the lawsuit.

If a person files a lawsuit in which it appears that he/she has no benefit from filing it, it shall be considered inadmissible, and it must be rejected without examining the subject. Therefore, in order for this condition to be met, the plaintiff's claim must include demands that precisely define the subject matter of the case, that is, specify the legal outcome that he/she seeks to reach. Failure to clearly and explicitly specify the claims makes the case lose one of its conditions, *i.e. the availability of interest.*

Moreover, the interest required for the admissibility of the case must include some necessary attributes. This interest should be legal, current, actual, personal and direct.

**Legal and legitimate interest:** It is the interest that is protected by the law, which gives its holder the right to resort to justice if this interest has been breached as a result of an erroneous act. Therefore, if this interest is in violation of public order and public morals, the case shall be rejected. *For example, claiming a debt resulting from drug dealing or gambling...*

**Existing and punctual interest:** It is a fixed and actual interest. It is that the attack on the right or legal position protected by the case has actually occurred. An example of an existing and punctual interest is when the lease contract has expired and the lessee has refrained from returning the property to the lessor. However, as an exception to this, the interest may be potential, so the plaintiff files a preemptive and precautionary case to face a danger before it occurs, in three cases:

When the plaintiff wishes to take precaution to push away an imminent or future damage, for example, a person files a lawsuit against a neighboring owner who is conducting excavations in his property, with the fear that the plaintiff's building will collapse, asking him to take precautionary measures to prevent damage.

When the plaintiff aims to authenticate a right the evidence of which is feared to disappear when disputed. For example, in the event of an accident, he/she asks the court for an immediate investigation by an expert to describe the situation before the evidence disappears.

When the plaintiff aims to establish a right that he/she had denied its existence. An example of this is if the debtor refuses to authenticate his/her signature in a deferred contract, so the creditor fears not to be able to prove the validity of the signature if this debtor dies, so the creditor lodges a lawsuit to establish the validity of the signature even if the contract is not yet due.

**Personal and direct interest:** Personal interest means that the lawsuit benefits the person attached to the request (the plaintiff) personally and not to another person. For example, the lessor's interest in receiving rent payment.

**2 Capacity:** The capacity is the authority by which the plaintiff may file his case before the judiciary, i.e. the legal capacity held by a particular person to bring the case before the court. The capacity in the prosecution relates to the holder of the right or to whom it has been transferred by inheritance or by another means, or the person who represents the right holder (for example, a lawyer), or who is appointed by the Law to replace the right holder in the litigation (for example, the legal representative of the minor, the bankruptcy agent, the company's liquidator), or the Public Prosecution in some cases.

**3 Eligibility:** Eligibility is of two kinds: eligibility to enjoy and eligibility to perform, and both must be present in the person who wishes to file the case.

Eligibility to enjoy is the ability of a person to acquire rights and assume obligations. This eligibility is enjoyed by every person from the date of his birth. Therefore, every living person has the right to file a lawsuit.

Eligibility to perform is the capacity of the litigant to perform the procedural acts in the litigation, whether in his/her name or in the interest of others.

Therefore, shall be deemed incompetent to exercise the right to lodge a lawsuit:

A minor who has not completed the age of eighteen

The insane and the fool who are locked down because of reduced or lack of awareness

The bankrupt who has filed for bankruptcy

A person deprived of his/her civil rights: *for example, a person against whom a judgment has been issued by the criminal court*

**As far as the subject of the case is concerned:**

For the case to be admissible, it is required that it has not been previously adjudicated by a final judgment enjoying the opposability of the case subject of the judgment. This means that the same case cannot be instituted for the second time if it has already been adjudicated before the court.

In order for the case to be validated, three conditions must be met altogether:



### "Unicity of the litigants"

the new lawsuit to be instituted is between the litigants themselves, and it is filed by them or against them in the same capacity.

### "Unicity of the subject":

the thing required in the new lawsuit to be instituted is the same.

### "Unicity of reason"

means that the request is based on the same reason.

To explain the three conditions mentioned, we will give the following example:

Fadi, in his personal capacity, filed a lawsuit against Layal for her claim of sale A on the basis of the sale contract concluded between them, and a ruling was issued in Layal's favour. Then, in his personal capacity, Fadi also filed the same lawsuit again against Layal (unicity of the litigants) to claim the same sale A (unicity of subject) based on the same sale contract between them (unicity of reason).

In this case, the lawsuit submitted by Fadi for the second time is overruled, due to the availability of the conditions for the opposability of the case settled.

In the event that one of the aforementioned conditions is not met:

If Fadi files the lawsuit against Layal in his capacity as a company manager (a difference in the litigants), or if Fadi sues Layal to claim another B property (a difference in the subject), or if Fadi files a lawsuit against Layal to claim property A, but based on the grant contract (difference in the reason).

Then, the new lawsuit submitted by Fadi is accepted due to the absence of one of the conditions for the opposability of the case settled.

## WHEN MUST A CASE BE FILED BEFORE THE CIVIL COURT?

For a case to be admitted, it is required that it be returned within the time limits specified for it in the law.

A right that is not exercised or claimed during a specific deadline shall be barred by limitation.

**In principle, in civil and trade matters, the limitation period is 10 years, meaning that the lawsuit must be instituted within 10 years from the date of entitlement to the right.**

**As an exception, some laws may provide for other time limits for filing a lawsuit.**



*For example:*

- Two-year deadline for filing a real property claim.
- Two-year deadline for claiming workers' wages.
- Five-year deadline for claiming rent allowances for buildings and agricultural lands.
- Ten-day deadline for filing an option for repurchase stipulated in Article 463 of Code of obligations and contracts.
- One-year deadline for filing a possession claim stipulated in Article 24 of the Code of Civil Procedure.
- Two-year deadline for filing a lawsuit in respect of all rights arising from the social security contract.
- One-month deadline for filing a claim for compensation for arbitrary dismissal stipulated in Article 50 of the Labor Law.
- Two-month deadline for filing an action to prove the lessor's default.



## HOW IS A CASE TO BE FILED BEFORE THE CIVIL COURT?

1

**Submission of the lawsuit petition:** The plaintiff shall submit the lawsuit's petition to the court clerk's office with the documents supporting it, deposit as many copies of it as the number of the defendants, and attach to each copy copies of the documents that he certifies by his signature that they are true copies of the original.

2

**Registration of petition at the court clerk's office:** the petition shall be deposited, after the fee has been paid, on the same day in a special register with a serial number, and the seal of the court shall be affixed to it and to the documents attached to it. The number and date of registration is also noted, and this is mentioned on the petition copies.

3

**Handing over the petition to the clerk:** The petition, along with the documents attached to it, is delivered to the clerk in a special file that apparently shows the name of the court, the names of the litigants, the petition number, and the year.

4

**Notifying the defendant of the lawsuit.**

5

**Submission of the response by the litigant:** The defendant must, within fifteen days as of the date of notification of the petition, submit a statement in which he responds to the lawsuit and attaches to it all documents supporting this response.

6

**Exchange of response statements between litigants:** the plaintiff may respond to the defendant's statement within ten days from the date it was notified by a statement that is communicated to the defendant, who may in his/her turn respond to it within a similar period.

**Remark:** The deadlines for exchanging response statements between litigants are not adhered to in reality, as this differs from one court to another

Possibility to modify the time limits for the exchange of response statements:

- Shortening the time-limit for exchanging the response statements in cases that require expeditious measures, provided that the deadline fixed is not less than twenty-four hours.
- Extending the time-limit for exchanging the response statements at the request of one of the litigants, if there are justifications for that.

● The court issues its decision for shortening or extending the time limits in the deliberation room.

7

**Expiry of the deadlines for exchanging the response statements:** On the day following the expiry of the deadlines for submitting the responses, the Chief clerk or the clerk must refer the file to the president of the court, who commissions one of its judges to review it in order to complete it when necessary and prepare the case for pleading within a time limit to be determined by him, which can be extended when needed. It is up to the president of the court to undertake this work by himself.

He may take the measures he deems appropriate for the aforementioned purpose, and he may instruct the litigants to provide the necessary clarifications in the facts or in the law regarding their claims or pleas, and to listen to the litigants in an effort to conciliate and make reconciliation between them, and other matters...

**8 Returning the file after the commissioned judge's mission ends:** Immediately upon the completion of the aforementioned mission, the commissioned judge returns the case file to the court's clerk office. The president, if no conciliation has been made between the litigants, sets the date for the hearing in which the case will be examined.

**9 The litigants are satisfied with the written pleas set forth in their statements:** the litigants may be satisfied with the written pleas set forth in their regulations. In this case, if the court deems that it is not necessary to hear the oral pleadings or any investigation and that the case is ready for judgment, it may decide on it without appointing a hearing for the pleading. In this case, a date must be set for rendering the judgment within thirty days from the date of submitting the written declaration.  
If the judgment is not issued on the mentioned date, a new date must be set for its issuance, which will be communicated to the litigants.

**10 The litigants are not satisfied with the written pleas set forth in their statements:** If the litigants are not satisfied with the written pleas set forth in their statements, then a date is set for the trial sessions, and a record is created for each trial stating: the opening and closing hours of the session, the name or names of the judge or judges, the names of the litigants and their attorneys, and the facts which have occurred and the statements that the President orders to record.

**11 Closing of the trial:** After the end of the pleadings, the president of the court decides to conclude the trial and sets a date for issuing the judgment within a period not exceeding six weeks. In the event that it is not issued on the specified date, he shall set another date for this to be communicated to the litigants.

**Note:** The mentioned six-week deadline is not actually adhered to.

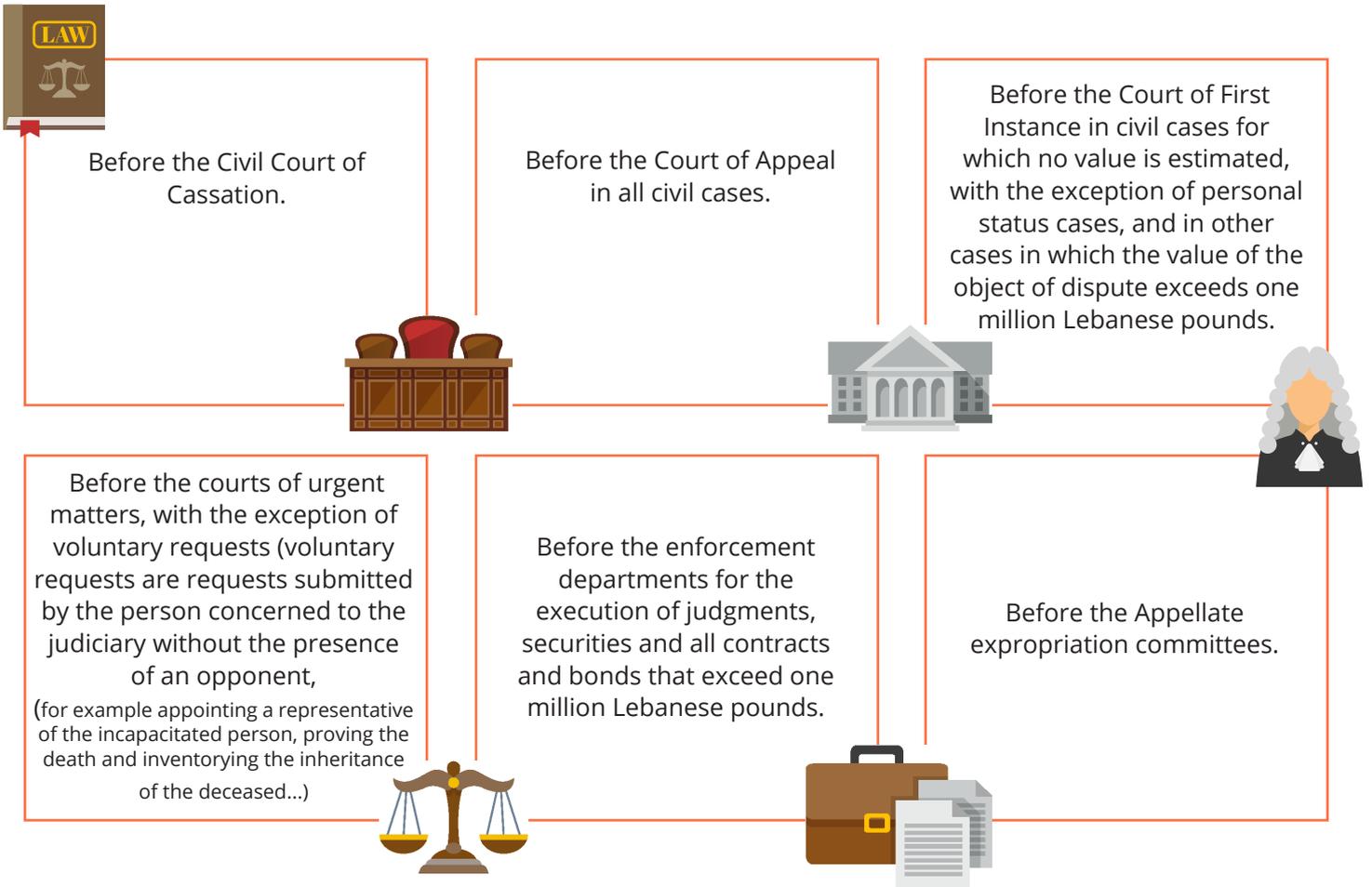
**12 Submitting a written memorandum after the conclusion of the trial:** Each of the litigants may submit, within a week following the conclusion of the trial, a written memorandum to complete and clarify the points mentioned in the statements. They may submit a reply note within a week from the date of their notification.  
The time limits mentioned in this article shall be reduced to two days in cases pending before the judges of urgent matters.

**13 Opening the trial in the event of a new fact occurring:** After the trial is concluded, if a new or unknown fact occurs, the court may decide, by itself or at the request of one of the litigants, to open the trial and re-register the case in the pleadings table.

**14 Rendering of the judgment:** After the parties have exhausted their discussions and then the trial is concluded, the judges, whose pleadings took place and the trial concluded in their presence, shall deliberate.  
The judgment is then passed unanimously or by majority. In the second case, the offending judge must write down his violation.  
The judges shall sign the judgment before it is pronounced, and the clerk shall sign it immediately, otherwise the judgment shall be void.

## SHOULD THE SERVICES OF A LAWYER BE USED BEFORE CIVIL COURTS?

Only lawyers may be appointed to the courts, and a lawyer must be appointed where it is stipulated by the law, and in the following cases:



The Law organizing the profession of the lawyers also stipulates that:

- Every publicly-traded company and all corporations, including limited liability companies, with a paid-up capital of one million Lebanese pounds or more, operating in Lebanon, whether its head office is located in the Lebanese territory or if it just has a branch there, shall appoint a permanent lawyer from among the active lawyers registered at the Bar Association with annual remuneration.

- If the company has a branch in North Lebanon, this branch must have its own lawyer from among the lawyers registered on the roll of the Tripoli Bar Association. It shall not be registered as a commercial company unless it proves its compliance with this obligation.



## WHAT ARE THE FEES TO BE PAID BEFORE THE CIVIL COURTS?

Judicial fees are regulated by the law issued on 1950/10/10 (the Judicial Fees Law) amended by successive laws, the latest of which was Law No. 98/710 dated 1998/11/5 and more recently by Law No. 181 dated 2020/6/12.

! *The amounts mentioned may change from time to time.*

### • First Instance Courts Tariff

#### 1. Registry fees

The Registry fees are: the registration fee, the convocation fee, the notification fee, and the copy fee.

##### • Registration fee

This fee shall be collected for each petition, summoning, special power of attorney, statement, written memorandum, document, paper or expert report, and for the documents attached to it that the two parties submit to it, and for all papers and summons submitted to the court or presented during the trial.

100 LBP for lawsuits not exceeding 200,000 LBP.

250 LBP for cases that are not quantifiable, including the cases stipulated in Article 13 of this law and the cases exceeding 200,000 LBP and not exceeding 1,000,000 LBP.

500 LBP for lawsuits exceeding one million Lebanese pounds and not exceeding five million LBP.

750 LBP for lawsuits exceeding five million Lebanese pounds and not exceeding ten million Lebanese pounds.

1,000 LBP for lawsuits exceeding ten million Lebanese pounds.



**• Convocation fee**

This fee shall be collected for each of the plaintiffs, defendants, and third persons, even if they have one representative, and for each witness who is brought before the civil courts at the request of the two parties.

But if the court decides to invite one of these people in a spontaneous manner without a request from the two parties, then neither of them will be required to pay the convocation fee.

100 LBP for lawsuits not exceeding 200,000 LBP.

250 LBP for cases that are not quantifiable, including cases provided for in Article 13 and cases exceeding 200,000 Lebanese pounds and not exceeding one million Lebanese pounds.

500 LBP for lawsuits exceeding one million Lebanese pounds and not exceeding five million Lebanese pounds.

750 LBP for lawsuits exceeding five million Lebanese pounds and not exceeding ten million Lebanese pounds.

1,000 LBP for lawsuits exceeding ten million Lebanese pounds.

**• Notification fee**

This fee shall be collected for each copy of a judgment or decision prepared for notification.

100 LBP for lawsuits not exceeding 200,000 pounds.

250 LBP for cases that are not quantifiable, including cases provided for in Article 13 and cases exceeding two hundred thousand pounds and not exceeding one million pounds.

500 LL for lawsuits exceeding one million Lebanese pounds and not exceeding five million pounds.

750 LBP for lawsuits exceeding five million Lebanese pounds and not exceeding ten million pounds.

1,000 LBP for lawsuits exceeding ten million Lebanese pounds.

**• Copy fee**

This fee is charged:

2,000 LBP for copies of judgments and decisions that one of the two parties requests to be notified of.

2,000 LBP for copies requested by one of the parties or a foreigner of the case file.

## 2. Lawsuit fees

The lawsuit fees are of two types: proportional and lump sum.



### • Proportional sum

- ▶ This fee is used in cases that can be assessed, and it represents %5.2.
- ▶ This fee is drawn on the amount and value of the requests subject to litigation, whether original, additional, accidental or opposing litigation.
- ▶ If the subject matter of the case deals with two parts, one of which is estimable and the other is not, then a proportional fee shall be taken for the first and a lump sum fee for the second.
- ▶ A quarter of this fee is due upon filing the lawsuit and the rest upon issuance of the judgment.



*Estimable lawsuits: The lawsuits are considered estimable if what is claimed in them can be estimated by an amount of money. Example: a case for claim of property of a real estate worth 100 million L.L.*

### • Lump sum fee

- ▶ This fee is used in cases that are not assessable, and the amount is /25,000 LBP/
- ▶ The full lump sum fee is collected upon filing the lawsuit.



*Non-Evaluable Claims: Claims are considered non-estimable if what is claimed in them is such that its value cannot be estimated. Example: Right of way lawsuits, infringement removal lawsuits, requests for the appointment of a judicial guard, boundary lawsuits...*

### 3. Registration and commercial endorsement fees

This fee is collected for the registration of companies and the endorsement on the registries.

It is fixed as follows:

- a- For endorsement on the merchants' books 20 LBP per page.
- b- For the registration of each commercial shop or company in the commercial register LBP 2,000.
- c- For the registration of every amendment, change or addition of a numbering related to companies and their regulations and previously registered businesses in the Commercial Register 1,000 LBP.
- d- 2,000 LBP for each copy of the entries registered in the Commercial Register.



### 4. Preliminary decisions and final judgments

- ▶ A copy fee for each preliminary decision delivered by the courts shall be charged in advance when extracted by the concerned parties, amounting to 2,000 Lebanese pounds.
- ▶ As for lawsuits not exceeding 200,000 Lebanese pounds, this fee will be 500 Lebanese pounds.
- ▶ In the case subject to the proportional fee, the judgment fee shall be taken in proportion to the adjudged value.

If a lump-sum fee is paid in a case, and the trial leads to a verdict of something that can be estimated, then the proportional fee for the value of that thing will be collected after deducting the fee charged in advance.

**Preliminary decision:** *It is the decision issued by the court during the course of the case and dealing with one of the investigation or proof measures such as appointing an expert, hearing witnesses, questioning litigants...*

**Final Judgment:** *It is the judgment rendered at the end of the trial. It rules on the entire origin of the dispute or on one of its aspects. It is final in its content, and the case is thus taken out of the court's hand. For example, the ruling to pay compensation to the victim...*

## • Tariff of Court of Appeal

The provisions of the tariff of the courts of first instance shall be applied to the courts of appeal, subject to the following provisions:



The lump sum fee at the Court of Appeal is 35,000 LBP/.



The proportional fee, whether from the original appellant or the accidental appellant, shall be collected in proportion to the amount or estimable object on which the appeal is applied.



But if the original or accidental appeal is made against something that cannot be estimated, the lump-sum fee shall be collected on it.

## • Tariff of Court of cassation

The provisions of the tariff of courts of first instance and the provisions of the tariff of courts of appeal shall be applied to the Court of Cassation, bearing in mind that the lump-sum fee of the Court of Cassation is 50,000 L.L/

### Legal aid



Legal aid is a measure authorized by the law for every person whose financial situation does not permit the payment of the trial fees and expenses mentioned previously. Accordingly, a volunteer lawyer is appointed to defend him/her in return for a symbolic amount, which rose from 375 000 L.L per file in all judicial stages to 600 000 L.L for each stage of the judicial investigation and before the various degrees of prosecution.

### WHO BENEFITS FROM LEGAL AID?

In principle, all natural and legal persons, Lebanese or foreigners, benefit from legal aid, provided that the person who benefits from this aid proves that he/she is unable to pay the costs of the trial and that it is not apparent from the dispute that the person requesting the aid is not rightful in his/her case.

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