

LAW OFFICES OF  
**DR. MUHAMAD MUGRABY**  
202 LIONS BUILDING  
SORATI STREET  
BEIRUT 2034-6404, LEBANON

TEL: +961-1- 341060  
FAX: +961-1- 744069

[www.mugraby.com](http://www.mugraby.com)  
[law@mugraby.com](mailto:law@mugraby.com)

Beirut, March 22, 2004

Statement by Dr. Muhamad Mugraby

Let it be known that the “authorities” of the Lebanese Regime continue to harass me and to threaten that I may be arrested again and prosecuted for my testimony before the European Parliament last November, despite the recent affirmation by the court of cassation of my professional immunity which gave me a clear legal and moral victory. (Please review the attached press release on the court’s decision of March 10, 2004).

The Regime is operating through special secret police reporting to Mr. Adnan Addoum, the chief prosecutor general before the court of cassation. During my absence from Lebanon last week on business, the police came to my home every day. The last time I was traveling abroad in early February they were coming to my office every day.

I am enclosing a copy of a fax copy (with an English translation thereof) that I found today upon my return, and which, I am told, was hand delivered to my office by a policeman last Friday. It is not addressed to me, and does not mention a subject or a legal basis. It is merely a communication between two police commanders conveying Mr. Addoum’s wish that I be interrogated by a special secret police unit reporting directly to him and occupying the entire ground floor of the ministry of justice. The ministry’s building is located next to the palace of justice. The colonel in command of that unit has an office next to Mr. Addoum’s office on the fourth floor of the palace of justice.

Sending that fax copy to my office in my absence is utterly out of order and violates the simplest safeguards strongly stipulated in Lebanese law and the Universal Declaration of Human Rights and the Covenants, and ignores my professional standing and immunity as a lawyer pursuant to Lebanese law which was very recently upheld by the court of cassation. Naturally, I consider that fax copy without any legal force.

But here we have further evidence that the Regime is still seeking to intimidate and silence me and to violate my civil and human rights as a citizen, a human rights advocate and defender, and a practicing lawyer. The Regime is particularly targeting my right of free speech and my practice of law where I continue to represent hundreds of underprivileged victims of human rights violations, the abuse of power and corruption.

Mr. Addoum has been exercising very wide powers which are not, in my opinion, supported by the law. He is overriding the local public prosecutors who have the

primary and sole jurisdiction to commence public actions in penal procedure. Among the disturbing features of the said fax is that Mr. Addoum obviously likes to be referred to as judge, while he is merely a prosecutor. International standards require strict separation between judges and prosecutors. He personally commands a secret police unit which violates the constitutional separation of powers. That unit occupies part of the ministry of justice, which is a similar violation. He is very vocal and appears on television and/or newspaper interviews almost on a daily basis to express his opinion, including political opinion, on highly sensitive issues, something without precedent among his predecessors. But, unlike his predecessors, Mr. Addoum enjoys strong backing by the government in Syria that supported his appointment in the first place and continues to have a close working relationship with him, which makes him both an icon and a strong man of the Regime.

Article One of the Interim Agreement between the EU and Lebanon requires the strictest recognition of, and respect for, human rights. I believe, now as I did when I testified before the EUP last November, that it is my duty as a human being and as a Lebanese citizen to bring to the attention of the EU all information related to the application of this human rights clause, and that it is the uncontestable right of the EU to have full and unrestricted access to such information. The ongoing attempts by the Regime in Lebanon to interfere with human rights and particularly my rights, and to penalize me for my EU appearance, should not go un-noticed by the EU. I call upon the EU, and all its member governments, to make such very strong representations to the Lebanese and Syrian governments as to insure, and obtain the strictest assurances, that human rights are fully respected and protected in Lebanon under the rule of law in a reformed judiciary that is in undeniable and full possession of independence, knowledge and integrity. All harassment of human rights defenders should promptly come to an end.

One of many steps in the right direction is to strongly recommend to the Syrian and Lebanese governments the immediate removal of Mr. Addoum from his present office, the discontinuation of the special secret police unit under his disposal, and the removal of this unit from the premises of the palace of justice and the ministry of justice.

Thank you very much for your cooperation and support.

Sincerely yours,



Muhamad Mugraby

(For more details please refer to [www.combar.info](http://www.combar.info))

المعارف طارق السيد  
إلى  
مركز بحوث بيروت

المديرية العامة لقوى الأمن الداخلي

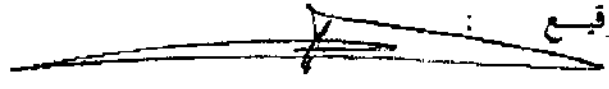
برقية فاكس

معتل للغاية	معتل جداً	عادي	عدد الصفحات
من: المقدم قائد سرية بيروت الاقليمية الاولى وكالة			
إلى: النقيب أمر فصيحة مينا الحصن *			
النص			
الرقم: ١٨٧٧		التاريخ: ١٨ / ٣ / ٢٠٠٤	
عطفًا على بوقية العقيد رئيس قسم المباحث الجنائية المركزية رقم ٨٥١ تاريخ ١٨ / ٣ / ٢٠٠٤ ومنا لاشارة النائب العام التمييزي القاضي عدنان عضم *			
لا بلاغ المدعو محمد عبد الله الصغري والدته فاطمة تولد ١٩٣٨ لبناني والذي يملك مكتب محاماة في بناية الاسود شارع الصوراتي الطابق الثاني وجوب حضوره الى مركز قسم المباحث الجنائية المركزية الكائن في مبنى وزارة العدل الطابق الارضي وذلك في الساعة التاسعة من تاريخ ٢٢ / ٣ / ٢٠٠٤ لاستماعه بقضية عدلية عالقة لدى القسم المذكور واعلامنا نتيجة التبليغ قبل الموعد المحدد *			

التوقيع: المقدم طارق السيد وكالة

تلقاها :  
الساعة والتاريخ :  
التوقيع :

بها : الرقيب الاول خداج  
الساعة والتاريخ : ٢٠٠٤ / ٣ / ١٨  
التوقيع :



TRANSLATION

Directorate General of the Internal Security Forces

-Fax Telegram-

From The Colonel Acting Commander of the Third Regional District of Beirut  
To the Captain Commander of the Minet el Hosn Pricinct

No. 1877 Dated 18/3/2004

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Text

-Further to the telegram of the Lieutenant Colonel Chief of the Central Criminal Investigations Section No. 851 dated 18/3/2004 under instructions from the Chief Public Prosecutor before the Court of Cassation Judge Adnan Addoum.

- To notify one Muhamad Abdallah Mugarby, his mother's name Fatima, born 1938, Lebanese, who owns a law office in Lions Building Sorati St. Second Floor that he must come to the premises of the Central Criminal Investigations Section on the ground floor of the Ministry of Justice on 22/3/2004 at 9:00 AM to be heard in a judicial case pending before the said section and to advise us of the result of this notification before the said appointment time.

Signed: Colonel Mashmoushi, Acting

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Transmitted by First Corporal Khaddaj

Date and hour: 18/3/2004

Signature:

## Press Release

### **Court of Cassation Reverses Indictment Decision** **by Court of Appeals Against Dr. Mugraby Under Article 111 COLP** **Mugraby: The Decision Is a Legal and Moral Victory**

On Wednesday afternoon, March 10, 2004, the Court of Cassation, with Dr. Ralph Riachy acting as chief judge, issued its decision on the petition for cassation filed by Attorney Dr. Muhamad Mugraby against the majority decision to indict him made by the Beirut Court of Appeals, sitting as the indictment chamber, with Jamil Bayram as the presiding judge, and Judge Ghada Aoun dissenting. The indictment had been mainly based on Article 111 of the Code Organizing the Legal Profession (COLP), providing for a prison sentence up to three years. Dr. Mugraby was arrested and detained last summer pursuant to this very article of COLP.

The court of cassation admitted Dr. Mugraby's petition for cassation, in form and in substance, and set aside the appellate decision. This gives Dr. Mugraby the right to sue for damages on the basis of Article 159 Code of Penal Procedure (CPP).

After reversing the appellate decision, the Court of Cassation considered the two appeals by the public prosecutor and the Bar Association at Beirut (BAB) filed with the court of appeals headed by Bayram, and dismissed both of them.

In contrast to what was erroneously reported by some papers, the court of cassation did not affirm the decision of the investigating judge. It simply refused to review it on the ground of lack of jurisdiction. That decision indicted Dr. Mugraby under Articles 391 and 393 Penal Code (PC), which carry a prison sentence of up to six months and a fine. The reason for its lack of jurisdiction given by the court was the lack of diversity in the legal characterization of the alleged criminal act required by CPP for admission of certain cassation petitions.

The court of cassation sided with Dr. Mugraby's argument that permission to prosecute had to be sought in advance from the BAB Council, and consequently, he had the right to make the exception before the investigating judge on the basis of the nullity of the prosecution and the public action for failure to duly respect Article 79 COLP. This article mandates that the permission of the BAB Council be obtained in advance of any prosecution. The Court of Cassation found that the investigating judge should have ruled on this exception. The fact that he did not entitle Dr. Mugraby to appeal the implicit decision arising from his silence. Therefore, such appeal is admissible in form.

After reversing the appellate decision of the court presided upon by Bayram, the Court of Cassation, dismissed the two appeals submitted by the public prosecutor and BAB. The court further ruled that the two purported disciplinary decisions, allegedly issued against Dr. Mugraby, are not irrevocable, which means that the required conditions for prosecution under Article 111 COLP are not fulfilled.

Finally, the court found that mere filing by the former president of BAB of the penal complaint against Dr. Mugraby on behalf of BAB, even though BAB never duly took the position of a

personal plaintiff, is by itself a permission to prosecute, as Article 79 COLP requires that the request be submitted the president of the bar association, who will convey it to the council, so that if the bar president refrains from doing so, and if the one month period stipulated by the article for ruling by the council on the request expires, then the permission is deemed to have been granted. In this regard, the court was substantively right in ruling that a request for permission to prosecute Dr. Mugraby was legally required, but it erred in its interpretation of how the requirement was presumed to have been fulfilled. For the provisions of Article 79 cannot be so interpreted for two reasons: Making a written request for the permission is clearly required by the article which gives the council, and only the council, to rule on this request, including a determination of whether the alleged criminal act arose in the course of practicing the profession. Furthermore, the public prosecutor did not wait till the end of the one month period!

According to Article 34 COLP, the organs of the bar association are the general assembly, the council, and the president. Each of these organs has its functions and powers as stipulated by COLP. The bar president may not usurp the functions and powers of the general assembly or the council. Therefore, the court was wrong in finding that the bar president can, by his action, annul or dispense with the text of the law, which delegates the power to grant permission to prosecute to the council alone, by a decision that may be appealed. Holding that the mere complaint by the former president constitutes permission to prosecute deprives Dr. Mugraby of the right to appeal. The law simply gave the power to give permission to prosecute to the bar council and not to the bar president or to the general assembly.

If the President of the Bar Association is given the right to exercise one of the most important powers of the council, this constitutes a serious and disturbing precedent, because the president would then substitute for the council in all its prerogatives, as well as for the general assembly. This cannot be tolerated. For the decision left standing the decision of the investigating judge to indict Dr. Mugraby under Articles 391 and 393 PC, which carry a prison sentence of up to six months and/or a fine. Therefore, Dr. Mugraby will consult with his colleagues over this aspect of the decision of the Court of Cassation in order to take such legal steps as may be necessary.