



Inter-Parliamentary Union

For democracy. For everyone.

Palestine/Israel

PAL/28 - Muhammad Abu-Teir
PAL/29 - Ahmad Attoun
PAL/30 - Muhammad Totah
PAL/32 - Basim Al-Zarrer*
PAL/47 - Hatem Qfeisheh*
PAL/57 - Hasan Yousef*
PAL/61 - Mohd. Jamal Natsheh
PAL/62 - Abdul Jaber Fuqaha*
PAL/63 - Nizar Ramadan*
PAL/64 - Mohd. Maher Bader*
PAL/65 - Azzam Salhab*
PAL/75 - Nayef Rjoub*
PAL/78 - Husni Al Borini*
PAL/79 - Riyadh Radad*
PAL/80 - Abdul Rahman Zaidan
PAL/82 - Khalida Jarrar (Ms.)

Decision adopted unanimously by the IPU Governing Council at its 197th session (Geneva, 21 October 2015)

The Governing Council of the Inter-Parliamentary Union,

Referring to the case of the above-mentioned parliamentarians, all of whom were elected to the Palestinian Legislative Council (PLC) in January 2006, and to the decision it adopted at its 196th session (March-April 2015),

Recalling that the parliamentarians concerned were elected to the PLC on the Electoral Platform for Change and Reform and arrested following the kidnapping of an Israeli soldier on 25 June 2006, that they were prosecuted and found guilty of membership of a terrorist organization (Hamas), holding a seat in parliament on behalf of that organization, providing services to it by sitting on parliamentary committees, and supporting an illegal organization, and that they were sentenced to prison terms of up to 40 months,

Noting that, while most of the parliamentarians concerned were released upon serving their sentences, many were subsequently rearrested, sometimes several times, and placed in administrative detention,

Considering that, although by September 2014 the number had reached 25 to 26 PLC members in administrative detention, according to information provided in October 2015 by one of the complainants, the number now stands at one, with only Mr. Mohammad Jamal Al-Natsheh in administrative detention; according to the complainant, Mr. Al-Natsheh has been in administrative detention for two and a half years and has already spent 10 years (non-consecutively) in administrative detention without charge or trial,

* According to information provided by one of the sources of information in October 2015, these parliamentarians are no longer in detention.

Recalling that, with regard to the use of administrative detention:

- The Supreme Court of Israel has ruled that the exceptional measure of administrative detention, which is usually ordered for six months, but may, in fact, be prolonged indefinitely, can only be applied if there is current and reliable information to show that the person poses a specific and concrete threat, or if the confidential nature of the intelligence and security of the sources prohibit the presentation of evidence in an ordinary criminal procedure; according to the Israeli authorities, there are two avenues of judicial review, namely the independent and impartial military courts, which have the authority to assess the material relevant to the detainee in question in order to determine whether the decision to detain him/her was reasonable, given his/her general rights to a fair trial and freedom of movement, and military prosecution, which implements a “cautious and level-headed” policy in the use of administrative detention; this approach is said to have reduced the number of administrative detention orders;
- Human rights organizations in and outside Israel have repeatedly stressed that administrative detention is usually justified by reference to a “security threat”, without, however, specifying the scope and nature of the threat or disclosing the evidence; accordingly, although administrative detainees are entitled to appeal, this right is ineffective, given that the detainees and their lawyers lack access to the information on which the orders are based and are therefore unable to present a meaningful defence,

Recalling that, during the mission in March 2013 by the delegation of the IPU Committee on Middle East Questions to Israel and Palestine, an invitation was extended to the Committee on the Human Rights of Parliamentarians to observe directly the legal proceedings in one or more cases of administrative detention of PLC members,

Considering that, according to information provided previously by one of the complainants, PLC member Mr. Husni Al Borini had been sentenced to a 12-month prison term and that Mr. Riyadh Radad and Mr. Abdul Rahman Zaidan, who had first been held in administrative detention, were now in detention subject to criminal charges,

Recalling that, on 20 August 2014, PLC member Ms. Khalida Jarrar was ordered, according to the complainant, based on secret information that she is a threat to the security of the area, to leave her home in Ramallah and to move to Jericho for the next six months; according to unofficial reports, following an appeal against the decision, the military court reduced the expulsion order from six months to one month,

Considering that, according to one of the complainants, on 2 April 2015, Ms. Jarrar was arrested at her home and immediately put under administrative detention, without charge or trial, based on secret information; while she was under administrative detention, the Israeli military prosecution brought charges against her, according to the complainant, all 12 of which revolve around her work as a political figure and human rights activist; on 21 May 2015, the Ofer Military Court judge ruled for her release on a bail of NIS 20,000 during trial proceedings; however, the military prosecution appealed the decision of the court; on 28 May 2015, another military court judge overturned the previous court decision and accepted the appeal to keep Ms. Jarrar remanded until the end of trial proceedings; according to the complainant, the judge based his information on secret evidence, to which neither Ms. Jarrar nor her legal counsel had access, and on information already reviewed by the previous judge and found to be insufficient to continue her detention; on 24 August 2015, the first hearing for witness testimonies in the trial was held; according to the complainant, three of the prosecution’s witnesses attended, and two did not present their testimonies owing to time constraints; the two witnesses spoke about the conditions in which their confessions were obtained, including torture and ill-treatment; subsequently, the prosecution requested the witnesses to be held as “hostile witnesses” and the court agreed to the request; this enabled the prosecution to ask leading questions and to claim that the confessions obtained initially were true, whereas the witnesses were making false statements in the court room; the counsel for defence, however, sought to prove the opposite – that their initial confessions were flawed, as they had been obtained under duress; according to the complainant, the witnesses spoke of pressure and ill-treatment during interrogation, including sleep deprivation, being tied up and held in positions to cause maximum pain and stress for long hours, and being threatened with further torture and the arrest of family members; additionally, according to the complainant, it was brought to light that witnesses were banned from lawyer visits for long periods, demonstrating that their confessions were made without legal counselling; a second hearing for witness testimonies was held on 20 September 2015; the complainant affirms that the court heard only one witness, currently held in prison by the Israeli authorities, whereas the military prosecution failed to ensure the attendance of the other witnesses; the

complainant points out that the one witness who attended denied all the former allegations against Ms. Jarrar and that, as a result, the military prosecution declared him a hostile witness, which the military court approved; the military prosecution further requested the court to issue arrest warrants for the witnesses who did not attend, so that they would be in custody during the next hearing set for 12 October 2015; however, on 12 and 18 October 2015, the hearings were postponed as, again, none of the witnesses showed up; the next hearings are scheduled for 25 October and 1 November 2015 and the complainant has requested that the IPU send a trial observer to those and other hearings,

Considering that the complainant affirms that Ms. Jarrar suffers from multiple transient ischemic attacks and hypercholesterolemia and was hospitalized for epistaxis (nose bleeds), being treated to stop the continuous bleeding; according to the complainant, the transfer between court and prison is a physically exhausting process, with Ms. Jarrar having reported that the transfer from the prison to the court and back lasts approximately 16 hours in difficult conditions,

Recalling the following information on file with regard to the revocation of the residence permits of three PLC members: in May 2006, the Israeli Minister of the Interior revoked the East Jerusalem residence permits of Mr. Muhammad Abu-Teir, Mr. Muhammad Totah and Mr. Ahmad Attoun, arguing that they had shown disloyalty to Israel by holding seats in the PLC; the order was not implemented, owing to their arrest in June 2006; after their release in May/June 2010, the three men were immediately notified that they had to leave East Jerusalem; Mr. Abu-Teir was ordered to leave by 19 June 2010 and, refusing to do so, was arrested on 30 June 2010 and later deported to the West Bank; the other two parliamentarians were ordered to leave by 3 July 2010 and, likewise refusing to comply with the order, took refuge in the International Committee of the Red Cross (ICRC) building in Jerusalem, from which they were removed by the Israeli authorities on 26 September 2011 and 23 January 2012 respectively,

Bearing in mind that, in its concluding observations on the third periodic report of Israel under the International Covenant on Civil and Political Rights,¹ the United Nations Human Rights Committee recommended, inter alia, that all persons under Israel's jurisdiction and effective control be afforded full enjoyment of the rights enshrined in the Covenant,

Considering that, since September 2015, violence has flared up again in the region with both Palestinian and Israeli casualties,

1. *Takes note* of the information provided by one of the complainants that only one member of the Palestinian Legislative Council (PLC) is now in administrative detention in Israel;
2. *Regrets* that the Israeli authorities are not providing it with regular official updates on the status of PLC members in Israeli detention, as it is difficult without that information to crosscheck the substantively fluctuating unofficial details and figures provided by the complainants over time, and to decide whether or not to close further examination of the situations of those parliamentarians, who are no longer in detention or facing legal proceedings;
3. *Sincerely hopes*, therefore, that the Israeli authorities will provide such information, including confirmation or denial that the criminal proceedings against detained PLC members, Mr. Riyadh Radad and Mr. Abdul Rahman Zaidan, have been dropped and that they were released as a result; *reiterates its wish* also in this regard to receive official information regarding the reported conviction of and 12-month prison term for PLC member Mr. Husni Al Borini and, should he have indeed been sentenced, a copy of the ruling;
4. *Is concerned* about Mr. Al-Natsheh's prolonged administrative detention; *considers* that, as his case history shows, even when PLC members are released, they remain subject to renewed arrest and can be placed in administrative detention again at any time, a practice which lends weight to claims that the use of such detention is arbitrary;
5. *Draws attention once again* to the need for further clarification as to how, given that administrative detention often relies on classified evidence, those so detained can fully enjoy due process in practice, and how far they can effectively challenge their deprivation of liberty, as the authorities affirm; *sincerely hopes*, therefore, that, with the assistance of the

¹ CCPR/C/ISR/CO/3.

authorities of the recently elected Knesset, invitations to attend judicial reviews of PLC members in administrative detention will materialize soon; and *requests* the Secretary General to make the necessary arrangements for a Committee member to attend at least one such hearing in the case of Mr. Natsheh;

6. *Is deeply concerned* about the allegations regarding the nature of the charges brought against Ms. Jarrar and the claim that she and her defence counsel cannot effectively challenge the information on which they are based; *wishes* to receive the views of the authorities on this matter and, if possible, to receive a copy of the charge sheet; *decides* to send a trial observer to the proceedings in her case with a view to monitoring and reporting on respect for fair trial;
7. *Expresses also deep concern* at reports about Ms. Jarrar's frail health; *trusts* that the Israeli authorities are doing everything possible to ensure that she receives the treatment required; *wishes* to receive confirmation thereof and to obtain further information about the treatment itself, including through regular access to a doctor;
8. *Remains deeply concerned* that Mr. Totah, Mr. Abu-Teir and Mr. Attoun were effectively removed from East Jerusalem; *reiterates its long-standing concerns* about the decision to revoke their residence permits and the manner of its implementation; *considers* that the revocation is at odds with the Hague Convention (IV) of October 1907 on the rules of customary international law, article 45 of which stipulates that the inhabitants of an occupied territory, of which East Jerusalem may be considered an example, are not to be compelled to swear allegiance to the occupying power;
9. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.