



Inter-Parliamentary Union
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Palestine

PL/84 - Najat Abu Bakr

***Decision adopted unanimously by the IPU Governing Council
at its 201st session (St. Petersburg, 18 October 2017)***

The Governing Council of the Inter-Parliamentary Union,

Having before it the case of Ms. Najat Abu Bakr, a member of the Palestinian Legislative Council, which has been examined by the Committee on the Human Rights of Parliamentarians pursuant to the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices),

Considering the letter from the Speaker of the Palestinian National Council (PNC) dated 30 August 2017,

Taking into account the hearing which the Committee on the Human Rights of Parliamentarians held with the Palestinian delegation during the 137th IPU Assembly, (St. Petersburg, October 2017),

Considering the following information provided by the complainant:

- Ms. Abu Bakr was deprived of her parliamentary immunity in December 2016 following a presidential decision that paved the way for the Attorney General to pursue an investigation against her; Ms. Abu Bakr was never provided with a written decision notifying her of such measure or justifying the reasons behind it;
- The presidential decision to revoke Ms. Abu Bakr's parliamentary immunity was underpinned by a Constitutional ruling of November 2016 which supported President Abbas's 2012 decree revoking the parliamentary immunity of former parliamentarians; according to the ruling, "President Abbas is not overstepping his authority as he is issuing legal decisions to revoke the immunity of members of the Palestinian Legislative Council while it is not in session"; the complainant pointed out in this regard that the Palestinian Legislative Council has not been able to convene since the 2007 conflict between Hamas and Fatah;
- Ms. Abu Bakr has been subjected to harassment, intimidation and restrictions since February 2016, primarily after she requested an investigation into transactions by the Minister of Local Governance in light of corruption allegations and was then herself accused of defamation;
- The authorities unsuccessfully attempted to arrest Ms. Abu Bakr on defamation charges; she sought refuge in the premises of the Palestinian Legislative Council (PLC) from 22 February to 10 March 2016; Ms. Abu Bakr ended her sit-in and handed the corruption files to the Attorney General after she was persuaded to do so by the head of the parliamentary group of Fatah, Mr. Azzam Al-Ahmed; she also provided oral testimony before the Palestinian Anti-corruption Commission against the above-mentioned minister, but no action has been taken by the Anti-corruption Commission or the parliamentary authorities to investigate those allegations, and a case for defamation is still pending against her;

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- Ms. Abu Bakr's salary was stopped without notice in June 2017 and she did not receive any written explanation for the measure; pursuant to orders from the Palestinian authority, Ms. Abu Bakr has not been allowed to exercise any kind of paid professional activity since the suspension of her salary; she was subject to a travel ban after June 2016, which was lifted in early August 2017; she has been receiving threatening letters and facing daily acts of intimidation;
- Ms. Abu Bakr filed a complaint before the Palestinian courts with regard to the lifting of her parliamentary immunity, the stopping of her salary and the travel ban but, owing to the lack of independence of the Palestinian judiciary, her lawyer was unable to reinstate her salary and parliamentary immunity or even obtain a decision allowing him to enter the PLC during Ms. Abu Bakr's sit-in without risking his own arrest,

Considering that, according to the letter from the Speaker of the Palestinian National Council dated 30 August 2017, most of the complainant's allegations are erroneous, since Ms. Abu Bakr did not submit a complaint before the PNC about her case and did not submit any question or interrogation to the above-mentioned minister within the framework and rules of procedure of the Legislative Council; that, despite Ms. Abu Bakr's behaviour, no legal action was pending against her because the matter had already been resolved thanks to a "tribal reconciliation carried out in accordance with the popular tradition between the family of the minister and the family of Ms. Abu Bakr"; and that she did not seek legal redress through a formal complaint on the other allegations concerning the stopping of salary and harassment,

Considering the following information that Mr. Azzam Al-Ahmad, member of the Palestinian delegation and head of the parliamentary group of Fatah, provided at the hearing held during the 137th IPU Assembly:

- With regard to the lifting of Ms. Abu Bakr's parliamentary immunity, only the parliamentary authorities are competent and such decision does not lie within the President's powers; Ms. Abu Bakr was facing an organizational issue with her parliamentary faction, Fatah, due to her divergent views on the political course of the party; she resorted to the media to provide a statement against the Fatah leadership and, as a result, was brought before a Fatah committee which decided to dismiss her from the party;
- The PNC's procedures and methods of work prevent parliamentarians from resorting to the media to publicly accuse ministers of violations of any kind; Ms. Abu Bakr should have referred the complaint against the mentioned minister to the parliamentary authorities; the minister accused by Ms. Abu Bakr of corruption was not even a minister at the time; she had faced similar issues in the past with former ministers who also accused her of defamation; the parliamentary authorities supported Ms. Abu Bakr and offered her protection within the PLC's premises when she was about to be arrested; Mr. Al-Ahmad mediated in the case and informed the presidency that, as a parliamentarian, Ms. Abu Bakr is protected by her parliamentary immunity; the Palestinian authorities informed him that there was no case pending against her;
- The Attorney General, however, as an independent authority and in accordance with his powers, was able to investigate Ms. Abu Bakr; Mr. Al-Ahmad accompanied Ms. Abu Bakr to the Attorney General's Office where she was questioned for about an hour before she was permitted to leave without any charges against her; a tribal reconciliation was carried out, in accordance with the popular tradition, between the family of the minister and the family of Ms. Abu Bakr;
- The parliamentary authorities did not issue a decision ordering the stopping of Ms. Abu Bakr's salary; the Ministry of Finance was the relevant authority to rule on such matters; Ms. Abu Bakr might have been deprived of her salary due to her lack of attendance at parliamentary sessions, and she could seek legal redress through a formal complaint;
- Concerning the alleged travel ban, Ms. Abu Bakr was able to travel numerous times in 2016 and 2017,

Considering that the State of Palestine is a party to the International Covenant on Civil and Political Rights, which it ratified in 2014 and which guarantees the right to freedom of expression

and association together with freedom of movement, thus entailing the prohibition of restrictions related to the aforementioned rights,

1. *Thanks* the parliamentary authorities for their cooperation and for the information provided;
2. *Is deeply concerned* about the lifting of Ms. Abu Bakr's parliamentary immunity, which seems to have come in response to the legitimate exercise of her parliamentary mandate and freedom of opinion; *is likewise concerned* that it appears that her parliamentary immunity was lifted by the President, which would contradict the principle of separation of powers and the independence of parliament;
3. *Is eager* therefore to receive official information about the facts and legal grounds supporting the President's decision to lift Ms. Abu Bakr's parliamentary immunity, as well as a copy thereof;
4. *Sincerely* hopes that the court will rule swiftly on her complaint regarding the stopping of her salary and the lifting of her parliamentary immunity; *trusts* that the Parliament will monitor this matter and assist her during the proceedings, if need be;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to provide relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.