



# INTER-PARLIAMENTARY UNION

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## PALESTINE / ISRAEL

CASE No. PAL/16 - OMAR MATAR (OMAR ABDEL RAZEQ)  
CASE No. PAL/17 - NAYEF AL-ROJOUN  
CASE No. PAL/22 - ANWAR ZBOUN  
CASE No. PAL/24 - ABDULJABER AL-FUQAHA  
CASE No. PAL/25 - KHALED YAHYA (KHALIL AL-RABIA)  
CASE No. PAL/28 - MUHAMMAD ABU-TEIR  
CASE No. PAL/29 - AHMAD ATTOUN  
CASE No. PAL/30 - MUHAMMAD TOTAH  
CASE No. PAL/32 - BASEM AHMED ZAARER  
CASE No. PAL/34 - MOHAMED MAHER BADER (BADIR)

CASE No. PAL/35 - MOHAMED ISMAIL AL-TAL  
CASE No. PAL/37 - ALI SALEEM ROMANIEN  
CASE No. PAL/43 - MOTLAK ABU-JHEASHEH  
CASE No. PAL/47 - HATEM QFEISHEH  
CASE No. PAL/48 - MAHMOUD AL-RAMAHI  
CASE No. PAL/51 - AYMAN DARAGHME  
CASE No. PAL/52 - NIZAR RAMADAN  
CASE No. PAL/53 - AZZAM SALHAB  
CASE No. PAL/54 - KHALED TAFISH

***Resolution adopted by consensus by the IPU Governing Council at its 188<sup>th</sup> session\*  
(Panama City, 20 April 2011)***

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, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/188/13(b)-R.1), and to the resolution adopted at its 187<sup>th</sup> session (October 2010),

*Referring also* to the study produced by the Israeli non-governmental organization Yesh Din (Volunteers for Human Rights) on the implementation of due process rights in Israeli military courts in the West Bank, entitled "Backyard Proceedings", which reveals the absence of due process rights in those courts, and to the study published in September 2006 by B'Tselem (the Israeli Information Center for Human Rights in the Occupied Territories) and entitled "Barred from Contact: Violation of the Right to Visit Palestinians Held in Israeli Prisons",

*Taking into account* the information provided by sources on 16 and 18 January 2011 and on 7, 10 and 31 March 2011,

*Recalling* the following: the parliamentarians concerned are part of a group of initially more than 30 PLC members who had been elected in January 2006 on the Change and Reform Party list (Hamas) and were arrested following the kidnapping of an Israeli soldier on 25 June 2006, prosecuted and found guilty of membership in a terrorist organization (Hamas), of holding a seat in parliament on behalf of that organization, of providing services to it by sitting on parliamentary committees, and of supporting an illegal organization; they were sentenced to prison terms of up to 40 months,

*Considering* that, while most of them were released after serving their sentences, many were subsequently rearrested and placed in administrative detention, and *noting* the following in this regard:

- Ayman Daraghme (PAL/51), Nizar Ramadan (PAL/52), Azzam Salhab (PAL/53) and Khaled Tafish (PAL/54), were rearrested on 19 March 2009 and taken into administrative detention after the failure of negotiations for the release of the Israeli

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\* The delegation of Israel expressed its reservation regarding the resolution.

soldier; Khaled Tafish and Ayman Daraghme were since released, the latter on 16 November 2010;

- Basem Ahmed Zaarer (PAL/32) was released on 30 December 2010 after 25 months in administrative detention;
- Ali Saleem Romanien (PAL/37) was released on 19 October 2010 after serving four and a half years in Israeli detention;
- The following PLC members were rearrested and placed in administrative detention for six months: Nayef Al-Rojoub (PAL/17), released on 20 June 2010, rearrested on 30 November 2010; Hatem Qafisha/Qfeisheh (PAL/47), rearrested on 18 October 2010; Mahmoud Al-Amahi/Ramahi (PAL/48), released on 31 March 2009, rearrested on 10 November 2010; Mohammed Ismail Al-Tal (PAL/35), released in December 2009, rearrested on 28 December 2010; Khalil Al-Rabia (Khaled Yahya, PAL/25), released on 11 February 2009, rearrested on 30 December 2010; Mohamed Maher Bader (Badir, PAL/34) rearrested on 31 March 2011; it is unclear for how long he was placed in detention;
- Omar Abdel Razeq (Omar Matar, PAL/16), released in late April 2009, rearrested on 11 January 2011; as of 15 January it was unclear whether he would be charged with an offence or placed in administrative detention;
- Mahmoud Al-Amahi/Ramahi (PAL/48), rearrested on 10 November 2010, has up to 15 January 2011 reportedly been unable to receive any family visits,

*Recalling* further the following: Mr. Abu-Teir, Mr. Totah and Mr. Attoun were elected in the electoral district of East Jerusalem where they live and were born; on 28 May 2006 the then Israeli Minister of the Interior revoked their Jerusalem residency permit arguing that they had shown disloyalty to Israel by holding seats in the PLC; an appeal against that decision was lodged in the Supreme Court and the deportation order was not implemented owing to their arrest on 26 June 2006, so that the deportation was de facto suspended until their release in May/June 2010, when they were immediately notified that they had to leave East Jerusalem; Abu-Teir was ordered to leave by 19 June 2010 and, refusing to do so, he was arrested on 30 June 2010; the other two parliamentarians were ordered to leave by 3 July 2010 and, likewise refusing to comply with the order, they took refuge in the International Committee of the Red Cross (ICRC) building in Jerusalem; a motion for injunction to the Supreme Court seeking to halt the deportation was rejected, the Chief Justice ruling that there was no point in issuing the requested injunction because "this is not an irreversible measure"; on 6 September 2010, the Supreme Court heard their petition against the revocation of their residency permit and deportation order; the Court decided to give the petitioners a 30-day period in which to reiterate their request to the Interior Minister for a re-examination of their residency status, a 30-day period for the Minister to respond, and a further 10 days for the petitioners to react to the Minister's reply; it adjourned the case without setting a new date for hearing,

*Noting* that by 18 January 2011, the Supreme Court had not set a new hearing date; that Abu-Teir was released from prison and, on 8 December 2010, deported to Ramallah; that the other two PLC members are continuing their sit-in in the Red Cross Building in East Jerusalem,

*Recalling* that Mr. Motlak Abu-Jheasheh, arrested on 29 June 2006 and released on 2 September 2009, requested a permit to allow him to travel to Mecca to perform the hajj/pilgrimage in November 2010, which the Israeli authorities reportedly refused without providing any reason; *noting* that no further information has been provided by the source in this regard,

*Bearing in mind* the following: in the West Bank, administrative detention is authorized under Military Order 1226, which empowers the military commanders in the area to detain an individual for up to six months if they have "reasonable grounds to presume that the security of the area or public security requires detention"; the Order neither defines the terms "security of the area" and "public security" nor stipulates a maximum cumulative period of administrative detention; it thus allows indefinite arbitrary detention; charges against prisoners, including the parliamentarians in question, are usually those of being a "security threat", but the area and nature of the threat are not specified and evidence is not disclosed; although administrative detainees have the right to appeal, its exercise is ineffective as the detainee and his lawyers lack access to the information on which the orders are based and are therefore unable to present a meaningful defence,

Noting that, in its concluding observations on the third periodic report of Israel under the International Covenant on Civil and Political Rights (ICCPR),<sup>1</sup> the 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,

1. *Deplores* the deportation of Mohammed Abu-Teir, which violates Israel's obligations under international and national law, as set out in its resolution of October 2010;
2. *Deplores* likewise the failure of the Supreme Court to rule on matters of such great importance, thereby de facto depriving the persons concerned of their right to seek legal redress and hence prolonging a grave injustice to which it could have put an end when it heard the case in September 2010; *earnestly hopes* that the Court will set a date for a new hearing as a matter of urgency;
3. *Reaffirms* that, over and above the compelling legal grounds which prohibit the deportation of the PLC members concerned and the fact that the argument of disloyalty - in itself highly questionable - must fail since the Israeli authorities accepted the participation of Palestinian residents of East Jerusalem in the elections, the deportation would constitute an inhuman act against the persons concerned, their families and their community;
4. *Urges* the Israeli authorities once again therefore to revoke the deportation orders and to issue the persons concerned with the residency permits to which they are entitled;
5. *Requests* the Committee to send a delegation to Jerusalem for the purpose of visiting the two members of parliament risking deportation;
6. *Considers*, with regard to the rearrest and administrative detention of PLC members, that such rearrest shows the arbitrary nature of administrative detention, which leaves any resident of the occupied territories, including PLC members, at the mercy of the authorities, depriving them of any legal procedure and redress; *affirms*, for all these reasons, that administrative detention, as practised in the occupied territories, is incompatible with fundamental human rights norms and unworthy of a State based on the rule of law;
7. *Remains deeply concerned*, in the light of the reported denial of family visits to Mr. Mahmoud Al-Amahi/Ramahi, at the conditions of detention of detained PLC members;
8. *Wishes to ascertain* the legal grounds for the rearrest and imposition of administrative detention on Mr. Mahmoud Al-Amahi/Ramahi, Mr. Nayef Al-Rojoub, Mr. Hatem Qafisha/Qfeisheh, Mr. Mohamed Ismail Al-Tal, Mr. Khalil Al-Rabia (Khaled Yahya), Mr. Omar Abdel Razeq (Omar Matar) and Mohamed Maher Bader; *also wishes to ascertain* their conditions of detention;
9. *Reaffirms* that the arrest, detention and prosecution of the parliamentarians concerned were politically motivated and hence arbitrary, since Israel was undoubtedly aware of and accepted the participation of Hamas in the election, which was recognized by the international community as free and fair;
10. *Calls on* the Israeli authorities to release the remaining detained PLC members forthwith and to refrain from the practice of administrative detention; *urges* once again the Israeli authorities, and in particular the Knesset, to heed the recommendations made by the international human rights bodies and mechanisms in this regard, most recently by the United Nations Human Rights Committee in its concluding observations on Israel's 3<sup>rd</sup> periodic report under the International Covenant on Civil and Political Rights (ICCPR), and to bring their practices into

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<sup>1</sup> CCPR/C/ISR/CO/3.

conformity with the State's international human rights obligations and hence ensure that all persons under Israel's jurisdiction and effective control are afforded the full enjoyment of the rights enshrined in the ICCPR;

11. *Decides to close the case of Abu-Jheasheh, inferring from the absence of any further communication from the source that he finally obtained authorization to travel to Mecca;*
12. *Requests the Secretary General to forward this resolution to the Israeli authorities and to the sources, inviting them to provide the requested information;*
13. *Requests the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 125<sup>th</sup> IPU Assembly (October 2011).*