

## PALESTINE

- **PSE-COLL-02** - 12 parliamentarians
- **PSE-91** - Mohammad Yusuf Chaker Dahlan



Inter-Parliamentary Union

For democracy. For everyone.

## Palestine

**Decision adopted unanimously by the IPU Governing Council at its 203<sup>rd</sup> session (Geneva, 18 October 2018)**



Abdul Hamid Al-Alia © Photo courtesy/Al-Alia family



Ashraf Jumaa © Photo courtesy/Ashraf Jumaa family

PSE-88 - Najat Abu Bakr (Ms.)  
PSE-92 - Shami Al-Shami  
PSE-93 - Nasser Juma  
PSE-94 - Jamal Tirawi  
PSE-95 - Nayema Sheikh Ali (Ms.)  
PSE-96 - Rajai Mahmoud Baraka  
PSE-97 - Yahya Mohammad Shamia  
PSE-98 - Ibrahim Al Masdar  
PSE-99 - Ashraf Jumaa  
PSE-100 - Majid Abu Shamala  
PSE-101 - Abdul Hamid Al-Alia  
PSE-102 - Alaa Yaghi

### Alleged human rights violations:

- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of movement
- ✓ Threats, acts of intimidation

### A. Summary of the case

The complainant alleges that the 12 parliamentarians, all members of Fatah, were deprived of their parliamentary immunity following a decision issued by Palestinian President Mahmoud Abbas in December 2016, to enable the Public Prosecutor to pursue a criminal investigation against them. The complainant also alleges that the decision to lift the parliamentary immunity of the members of parliament was communicated orally to them, as they never received any written decision providing the reasons justifying such a measure.

The complainant further alleges that the parliamentarians were also deprived of their salaries, which were suspended without notice on 6 June 2017 on the instructions of the Ministry of Finance. According to the complainant, the suspension of salaries came in response to the legitimate exercise of their parliamentary mandate and freedom of opinion, as well as their denunciation of alleged

### Case PSE-COLL-02

**Palestine:** The Palestinian Legislative Council is affiliated to the IPU

**Victims:** 12 Members of the Palestinian Legislative Council, members of the majority (10 men and two women)

**Qualified complainant(s):** Section I (1) (a) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** January 2018

**Recent IPU decision:** [January 2018](#)

**IPU mission:** - - -

**Recent Committee hearing:** Hearing with the head of the Fatah parliamentary group at the 139<sup>th</sup> IPU Assembly (October 2018)

### Recent follow-up

- Communication from the authorities: Letter from the Speaker of the Palestinian National Council (August 2018)
- Communication from the complainant: September 2018
- Communication from the IPU: Letter to the Speaker of the Palestinian National Council (September 2018)
- Communication from the IPU to complainant: September 2018

corruption within the ruling party, Fatah. Some of the parliamentarians decided not to file a complaint before the national jurisdiction, invoking the latter's lack of independence and arbitrariness.

Largely due to internal divisions, the Palestinian Legislative Council (PLC) has not been able to meet since 2007, although individual members of the PLC continue to carry out their parliamentary functions to the best of their abilities.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Palestine and Mr. Azzam Al-Ahmad, head of the Fatah parliamentary group, for the information shared in the hearing with the Committee on the Human Rights of Parliamentarians held during the 139<sup>th</sup> IPU Assembly;
2. *Remains* concerned that the parliamentary immunity of the members of the PLC was lifted by presidential decision. This defeats the very purpose that the procedure for lifting parliamentary immunity is meant to serve, namely to shield the institution of parliament and its members from potential encroachment on its powers and privileges by the other branches of State; *acknowledges*, nevertheless, the exceptional situation in which the PLC finds itself, and which makes it very difficult for parliamentary immunity to be protected in practice; *sincerely hopes* that the PLC will soon be able to reconvene and to actively defend, as an institution, the rights of the people who elected it, as well as to protect its own members against possible reprisals because of their work;
3. *Deeply regrets* that the salaries of the 12 parliamentarians have not been reinstated and that the alleged violations of the right to freedom of movement conveyed by the complainants are still ongoing; *is concerned* about Mr. Abu Shamala's inability to renew his diplomatic passport, as his application was allegedly rejected by the competent authorities in the absence of any justification; *recalls* that the 12 parliamentarians filed several complaints with the judicial authorities; *sincerely hopes* that the court will rule swiftly on their complaints in an independent and fair manner; *trusts* that parliament will monitor this matter and assist them during the proceedings, if need be;
4. *Reiterates* its concerns about the lifting of the parliamentary immunity of the 12 parliamentarians through a presidential decision so ordering, which would contradict the principle of the separation of powers and the independence of parliament; *fails* to fully understand the legal grounds justifying this decision;
5. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be able to provide relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.



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## Palestine

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Former Palestinian Security Minister Mr. Mohamed Dahlan (L) speaks to reporters outside the offices of the Palestine Liberation Organization, 8 November 2004. AFP Photo/Jamal Aruri

### PSE-91 – Mohamed Yusuf Chaker Dahlan

#### Alleged human rights violations:

- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings

#### A. Summary of the case

Mr. Mohammad Yusuf Chaker Dahlan, a member of the Palestinian Legislative Council (PLC), was deprived of his parliamentary immunity and allegedly subjected to arbitrary proceedings when the Attorney General launched an investigation against him on 3 January 2012 into allegations of corruption and embezzlement of public funds. At the Attorney General's request, the President of the Palestinian National Authority (PNA), Mr. Mahmoud Abbas, issued a decision on the same day ordering the lifting of Mr. Dahlan's parliamentary immunity by decree. Prior to the lifting of his parliamentary immunity, Mr. Dahlan was expelled from his party, Fatah, in October 2011, over alleged corruption and an attempted coup.

In 2013, having criticized the Palestinian security establishment, Mr. Dahlan was also charged with defaming and insulting the State's institutions. On 6 March 2014, the Ramallah Magistrates' Court sentenced Mr. Dahlan in absentia to two years of imprisonment on the defamation-related charges. The Corruption Crimes Court in turn, sentenced Mr. Dahlan on 7 December 2016 to three years of imprisonment and a fine of US\$ 16 million. Mr. Dahlan has

#### Case PSE-91

**Palestine:** The Palestinian Legislative Council is affiliated to the IPU

**Victim:** Member of the Palestinian Legislative Council, member of the majority

**Qualified complainant(s):** Section I (1) (a) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** October 2017

**Recent IPU decision:** [January 2018](#)

**IPU mission:** - - -

**Recent Committee hearing:** Hearing with the head of the Fatah parliamentary group at the 139<sup>th</sup> IPU Assembly (October 2018)

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been living in the United Arab Emirates (Abu Dhabi) in self-exile since 2011 and is unable to travel to Palestine for fear of imprisonment. He is reportedly facing acts of intimidation, as Fatah has launched several campaigns to damage his reputation in Palestine.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Palestine and Mr. Azzam Al-Ahmad, head of the parliamentary group of Fatah, for the information provided at the hearing with the Committee on the Human Rights of Parliamentarians during the 139<sup>th</sup> IPU Assembly;
2. *Notes* the exceptional situation in which the PLC finds itself, and which makes it very difficult for parliamentary immunity to be protected in practice; *is nevertheless deeply concerned* about the lifting of Mr. Dahlan's parliamentary immunity by a presidential decree; *notes* that Mr. Dahlan has exhausted all available national remedies to appeal the President's decision and that, in spite of the procedural abnormalities alleged by the complainant and demonstrated by court decisions, the Court of Cassation dismissed Mr. Dahlan's case and confirmed the lifting of his immunity; *further notes with concern* that the presidential decision was confirmed by the ruling of the Constitutional Court established by the President in 2016;
3. *Underlines* the serious procedural and legal irregularities raised by the complainant and that have allegedly marked Mr. Dahlan's trials for defamation and corruption, namely the fact that Mr. Dahlan was convicted of defamation in 2014 while he still enjoyed parliamentary immunity, since the matter was still pending before the court, and that the first- and second-instance courts rejected the corruption charges in 2015, concluding that Mr. Dahlan's parliamentary immunity was still valid;
4. *Understands* that part of the controversy that arises in this case stems from the different interpretations of article 43 of the Palestinian Basic Law; *notes* that Mr. Dahlan's immunity was lifted in 2012, six years following the alleged corruption accusations, which makes the complainant rather doubtful as to the emergency nature of the President's decision; *recalls* that according to article 43, "The President of the [Palestinian] National Authority shall have the right, in cases of necessity that cannot be delayed, and when the [Palestinian] Legislative Council is not in session, to issue decrees that have the power of law. These decrees shall be presented to the [Palestinian] Legislative Council in the first session convened after their issuance; otherwise they will cease to have the power of law. If these decrees are presented to the [Palestinian] Legislative Council, as mentioned above, but are not approved by the latter, then they shall cease to have the power of law";
5. *Sincerely hopes* that the PLC will soon be able to reconvene and to protect, as an institution, their own members against possible reprisals, as foreseen by article 43 of the Palestinian Basic Law;
6. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be able to provide relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.