PALESTINE/ISRAEL

- **PSE-02**: Marwan Barghouti
- **PSE-05**: Ahmad Sada’at
- **PSE-COL-01**: 23 parliamentarians
Palestine/Israel

**Decision adopted by consensus by the IPU Governing Council at its 209th session (Nusa Dua, 24 March 2022)**

Ramallah, 15 April 2015 – Palestinian protesters wave flags bearing portraits of Fatah leader, Marwan Barghouti, during a march to mark the anniversary of his arrest. AFP Photo/Abbas Momani

**PSE-02 – Marwan Barghouti**

**Alleged human rights violations**

- Torture, ill-treatment and other acts of violence
- Arbitrary arrest and detention
- Lack of fair trial proceedings

**A. Summary of the case**

Mr. Marwan Barghouti, a democratically elected member of the Palestinian Legislative Council (PLC), in the constituency of Ramallah on the West Bank, since January 1996 and widely known, according to several sources, for advocating a just and lasting peace in the Middle East, was arrested on 15 April 2002 in Ramallah by the Israeli Defence Forces and transferred to a detention facility in Israel. He was charged with murder, attempted murder and involvement in terrorist organizations. His trial before the Tel Aviv District Court started on 14 August 2002 and ended on 6 June 2004, when the court sentenced him to five life sentences and two 20-year prison terms. Despite being in prison, Mr. Barghouti was re-elected as a member of parliament for his constituency in the 2006 Palestinian legislative elections.

The complainants have raised a series of legal objections to Mr. Barghouti's arrest and prosecution, alleging that he was ill-treated, especially at the start of his detention, and was denied access to legal counsel. The Committee appointed a legal expert and lawyer, Mr. Simon Foreman, to report on the trial.

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**Case PSE-02**

**Palestine/Israel: The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU**

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

**Qualified complainant(s):** Section I(1)(b) of the Committee Procedure (Annex I)

**Submission of complaint:** April 2002

**Recent IPU decision:** November 2020

**IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the Palestinian complainants at the 162nd session of the CHRP (October 2020); hearing with head of the parliamentary group of Fatah at the 139th IPU Assembly (October 2018)

**Recent follow-up:**
- Communication from the authorities: Letters from the head of the Knesset delegation to the Inter-Parliamentary Union (March 2022); letter from the Speaker of the Palestinian National Council (October 2020)
- Communication from the complainants: November 2020
- Communications to the authorities: Letters to the Knesset Speaker and the head of the Knesset delegation to the Inter-Parliamentary Union (March 2022); letter to the Speaker of the Palestinian National Council (December 2021)
- Communication to the complainants: February 2021

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1 The delegation of Israel expressed its reservations regarding the decision.
His 2003 report, on which the Israeli authorities have not provided their observations, stated that, “the numerous breaches of international law … make it impossible to conclude that Mr. Barghouti was given a fair trial” and that guilt had therefore not been established.

Mr. Foreman stated in his report that those breaches started with the illegal arrest and transfer of Mr. Barghouti to Israel according to the Oslo Agreements and the Fourth Geneva Convention. According to the report, Mr. Barghouti’s claims that he was subjected to cruel, inhuman and degrading treatment during the interrogations have never been investigated. Regarding the conduct of the trial proceedings, the trial observer indicated that none of the prosecution witnesses, all Palestinians, had testified against Mr. Barghouti and provided any evidence of his involvement in the acts of which he is accused. On the contrary, some of them contested their “confessions” as having been obtained under duress, while others stated that they were forced to sign documents in Hebrew that they did not understand, and others took the opportunity to denounce Israeli politics in the occupied territories. Moreover, according to one of the sources, on 6 April 2003 the court reportedly accepted as Mr. Barghouti’s testimony a report written by the Israeli intelligence services that Mr. Barghouti had refused to sign. Mr. Foreman also noted that, at the first hearings, the public present in the court room displayed a hostile attitude, calling Mr. Barghouti a “murderer, terrorist”.

According to Mr. Barghouti’s defence counsel, the charges brought against Mr. Barghouti were entirely based on secret reports that he had not seen, and the questions put to him by his interrogators were only about documents taken from Palestinian National Authority (PNA) offices, namely requests for financial or social support addressed to Mr. Barghouti. As a parliamentarian and former Secretary General of Fatah-West Bank, Mr. Barghouti used to get such requests, which he forwarded to Mr. Arafat’s office.

In the early years of his detention, several members of the Knesset called for the release of Mr. Barghouti, such as Knesset member Mr. Amir Peretz in March 2008 when he stated that Mr. Barghouti could be a key element in attaining stability and assuming responsibility of the PNA, and Mr. Gideon Ezra, a member of Kadima. Following Mr. Barghouti’s election in August 2009 to Fatah’s Central Committee, the Israeli Minister for Minority Affairs, Mr. Avishaï Braverman, also expressed his support for his release.

On 17 April 2017, Mr. Barghouti initiated a mass hunger strike, joined by more than 1,000 Palestinian inmates, to protest against the abusive and inhumane conditions in which Palestinian inmates were allegedly being held by the Israeli authorities. While the Israeli prison service had agreed to grant some of the detainees’ requests, including increasing the number of monthly visits, the complainants stated that such a request had not been met.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered information on the situation of Mr. Marwan Barghouti and other Palestinian inmates in Israeli prisons, namely on visitation rights, which were severely restricted due to the COVID-19 pandemic. The Committee also learned about the difficult conditions that family members of those detained have to meet before they are granted access to visit their loved ones, which include International Committee of the Red Cross confirmation, an Israeli permission to enter the country and the lengthy trip to the prison facility. During the October 2020 hearing, the complainants also described the dire detention conditions in Israeli prisons, particularly overcrowding. In their letter of 18 October 2020, the Israeli parliamentary authorities did not provide any information on Mr. Barghouti’s conditions of detention, including his visiting rights.

The Committee on the Human Rights of Parliamentarians invited the Israeli authorities to a hearing during its session held during the 144th IPU Assembly in March 2022 to discuss Mr. Barghouti’s case and resume dialogue. In their letter of 10 March 2022, the Israeli authorities declined the Committee’s hearing invitation, considering that Mr. Barghouti was duly convicted in a fair trial conducted in an Israeli court for murder, attempted murder and membership of a terrorist organization. The Israeli authorities added that, in light of these elements, they see “no reason to alter their position vis-à-vis the Committee on this case or any others pertaining to terrorists convicted in Israeli courts”. 

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B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Takes note of the Israeli parliamentary authorities’ letter of 10 March 2022; regrets, however, that the Israeli delegation to the 144th IPU Assembly (March 2022) did not meet with the Committee; notes, nevertheless, that it has engaged in a constructive dialogue with the IPU Secretary General on the issue at hand; reaffirms that dialogue and debate are at the heart of the Committee’s work as they promote a better understanding of opposing views and therefore promote appropriate solutions for the cases at hand;

2. Reaffirms its views that members of parliament are not above the law and that when they commit crimes they should be held accountable in a court of law following due process; recalls that Mr. Barghouti was a serving member of the Palestinian Legislative Council when charges of terrorism were brought against him; recalls in this regard the stringent legal arguments put forward in Mr. Foreman’s report of 2003, on which the Israeli authorities have never provided their observations, that Mr. Barghouti’s trial did not correspond to the fair trial standards that Israel, as a party to the International Covenant on Civil and Political Rights, was bound to respect; and recalls, in light of the report, that Mr. Barghouti’s transfer to Israel had breached the Oslo Agreements and the Fourth Geneva Convention and had led the IPU to urge the Israeli authorities to transfer Mr. Barghouti to the custody of the Palestinian authorities with a view to his being prosecuted and judged by them, in accordance with international law and international fair trial standards;

3. Deeply regrets that its long-standing requests for the Committee to be granted permission to visit Mr. Barghouti have been left unanswered by the Israeli authorities; and sincerely hopes that the Israeli authorities will consider such a request and finally authorize a Committee visit to Mr. Barghouti;

4. Recalls that the Committee’s calls on the Israeli authorities to release Mr. Barghouti are based on the numerous breaches of his rights during his arrest, prosecution and trial, but also on calls from within Israel, including from Knesset members, for his release; and refers to the 2008 statements of Mr. Amir Perez in this regard and that in 2003 some newspapers announced that the Israeli Government was tempted to negotiate the release of Mr. Barghouti under a prisoner exchange scheme, which was ultimately not observed;

5. Reiterates with grave concern that Mr. Barghouti was allegedly denied his visiting rights for three years for reportedly taking part in the 2017 mass hunger strike and that he was only able to receive two visits from his spouse in 2020 due to the COVID-19 pandemic; firmly recalls the United Nations Standard Minimum Rules for the Treatment of Prisoners, whereby Mr. Barghouti’s visitation rights should not be subject to arbitrary decisions authorizing or denying visits; calls on the relevant Israeli authorities to ensure that Mr. Barghouti is entitled to family visiting rights in accordance with the law and international relevant standards; and wishes to ascertain his current conditions of detention, with respect in particular to the frequency of visits and access to medical care;

6. Requests the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;

7. Requests the Committee to continue examining this case and to report to it in due course.
Palestine/Israel

Decision adopted by consensus by the IPU Governing Council at its 206th session (Extraordinary virtual session, 3 November 2020)

Palestinian supporters of the Popular Front for the Liberation of Palestine (PFLP) take part in a protest outside the UNDP office calling for the release of Ahmad Sa’adat, leader PFLP, in Gaza city on 29 July 2015. MAJDI FATHI/NurPhoto/NurPhoto via AFP

PSE-05 – Ahmad Sa’adat

Alleged human rights violations

- Arbitrary arrest and detention
- Inhumane conditions of detention
- Lack of fair trial proceedings

A. Summary of the case

On 14 March 2006, Mr. Ahmad Sa’adat was abducted by the Israeli Defence Forces from Jericho Jail and transferred to Hadarim Prison in Israel, together with four other prisoners, after being accused by the Israeli authorities of involvement in the October 2001 murder of Mr. R. Zeevi, the Israeli Minister of Tourism. The Israeli authorities concluded one month later that Mr. Sa’adat had not been involved in the killing, but went on to charge the other four suspects. Subsequently, 19 other charges were brought against Mr. Sa’adat, all arising from his leadership of the Popular Front for the Liberation of Palestine (PFLP), which Israel considers a terrorist organization. None of the charges allege direct involvement in crimes of violence. On 25 December 2008, Mr. Sa’adat was sentenced to 30 years in prison. While detained, Mr. Sa’adat reportedly did not receive the medical care he required, nor visits from his family. In March and June 2009, he was placed in solitary

The delegation of Israel expressed its reservations regarding the decision.

Case PSE-05

Palestine/Israel: The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU

Victim: Member of the Palestinian Legislative Council (member of the majority)

Qualified Complainant(s): Section I.(1),(b) of the Committee Procedure (Annex I)

Submission of complaint: July 2006

Recent IPU decision(s): October 2018

Recent IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the Palestinian complainants (October 2020)

Recent follow-up:
- Communication from the authorities: Letters from the head of the Knesset delegation to the Inter-Parliamentary Union (October 2020)
- Communication from the complainant: October 2019
- Communication addressed to the authorities: Letter to the Speaker of the Knesset (September 2020)
- Communication addressed to the complainant: October 2020
confinement, prompting him in June 2009 to go on a nine-day hunger strike. He remained in solitary confinement for three years, until May 2012.

In April 2017, Mr. Sa’adat took part in a mass hunger strike by Palestinian detainees to protest against their detention conditions in Israeli prisons. He was reportedly moved at that time to solitary confinement in Ohlikdar Prison. According to the information gathered during a hearing with the Palestinian complainants in October 2020, the strike had also been triggered by the 2017 decision of the Israeli authorities to reduce the number of monthly visits to one instead of two visits per month. The complainants stated that the Israeli authorities had promised to increase the number of monthly visits; however, this has yet to be done.

In their letter of 18 October 2020, the parliamentary authorities did not provide any information on Mr. Sa’adat’s current conditions of detention, including his visiting rights. The authorities suggested that the IPU should consider whether future correspondence relating to the case of Mr. Sa’adat was appropriate, given his involvement in terrorism-related crimes.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered the following information on the situation of Palestinian inmates in Israeli prisons:

- The International Committee of the Red Cross (ICRC) is allegedly the main focal point between the Israeli authorities and the inmates’ families, and the only international organization allowed to conduct visits to Israeli prisons. Due to the COVID-19 pandemic, family visits are allegedly restricted to one relative instead of five, and phone calls are allegedly prohibited. Prison guards may, however, allow an inmate to have a phone call in the event of emergencies. Nevertheless, there appears to be no consistency with respect to phone calls, which, according to the complainants, are arbitrarily granted or refused by prison guards;

- According to the complainants, visits are restricted to spouses and first-degree relatives (children, parents and siblings). They said that, before any visit could take place, the family had to receive confirmation from the ICRC and be granted a permit to enter Israel. Visits lasted for 45 minutes and took place in the visiting room, where prisoners and their relatives communicated by phone in front of a glass window separating them. The complainants added that preparing for a visit was a time-consuming process; the round trip could take almost eight hours, owing to the family’s place of residence, the location of the prison and the number of checkpoints to cross. The complainants stated that those conditions also applied to other inmates, and were more complicated for inmates from Gaza. According to the complainants, the Israeli authorities purposely detained inmates in prisons located far away from their place of residence, making it difficult for their families to visit;

- According to the complainants, detention conditions in Israeli prisons were dire. They said that prison buildings were obsolete, with poor sanitary conditions, and that they were infested with fleas and mosquitoes, while prison overcrowding was prevalent. The complainants alleged that inmates were not allowed to have a fan in times of high temperatures. The same applied during colder times, as prisons do not have central heating. Reportedly, prisoners were constantly being moved from one prison to another, or from prison to an investigation centre or to court, which meant that they spent several hours handcuffed inside a vehicle with aggressive and strict guards. The complainants also alleged that there were clothes shortages in prison and that inmates were allowed to have a new shirt only every three months. Inmates were required to first signal their needs to the prison guard, and wait for the guard to grant the request. Once the request was approved, inmates had to wait for a family visit before informing their relatives of their needs. The shirt could then be provided during the following family visit. The complainants also stated that detainees of all ages were held together, including children and young adults. Inmates suffering from serious diseases, including cancer or diabetes, were allegedly denied appropriate medical care. The complainants also denounced Israel’s overuse of administrative detention.
B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Takes note of the Israeli parliamentary authorities’ letter of 18 October 2020; deeply regrets, however, the lack of information about Mr. Sa’adat’s detention conditions;

2. Strongly reaffirms its long-standing position that Mr. Sa’adat’s abduction and transfer to Israel were related not to the original murder charge but rather to his political activities as PFLP General Secretary; deplores his continued detention for over 14 years as a result of a politically motivated trial; and consequently calls again on the Israeli authorities to release him without delay;

3. Is deeply concerned about the complainants’ account of the detention conditions in Israeli prisons, including the prevailing overcrowding and the alleged obsolete state of prison buildings; is also worried about the prohibition of phone calls and the arbitrary practice of prison guards in this regard; and urges the Israeli authorities, in light of the COVID-19 pandemic and subsequent visiting restrictions, to enable detainees to call their relatives;

4. Reiterates its long-standing wish to be granted permission to visit Mr. Sa’adat; and urges the Israeli authorities to give serious consideration to this request;

5. Questions why the Israeli authorities decided to reduce the number of visits to one visit per month, instead of the two monthly visits that were allowed until 2017; wishes to receive more information on the reasons pertaining to this decision; also notes that, due to the COVID-19 pandemic, family visits would be limited to one person instead of five; deplores the fact that Palestinian prisoners feel compelled to resort to hunger strikes to have their demands heard and acted upon; and is eager to receive updated information on Mr. Sa’adat’s current conditions of detention;

6. Stresses that the many national and international reports denouncing the conditions of detention of Palestinian prisoners in Israeli jails should be of concern to the Knesset; reaffirms that the Knesset can, and should, exercise its oversight function of the Israeli prison service with regard to the treatment of Palestinian prisoners and thereby help ensure that all persons under the jurisdiction and effective control of Israel are afforded the full enjoyment of the rights enshrined in the International Covenant on Civil and Political Rights; wishes to know if the Knesset and individual members are allowed to carry out impromptu prison visits and, if so, to receive information on the applicable legal framework;

7. Requests the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;

8. Requests the Committee to continue examining this case and to report to it in due course.
Palestine/Israel

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

Parliamentarians in administrative detention:
- PSE-57 - Hasan Yousef
- PSE-82 - Khalida Jarrar (Ms.)

Parliamentarians previously in administrative detention:
- PSE-29 - Ahmad Attoun
- PSE-32 - Basim Al-Zarrer
- PSE-47 - Hatem Qfeisheh
- PSE-61 - Mohammad Jamal Natsheh
- PSE-62 - Abdul Jaber Fuqaha
- PSE-63 - Nizar Ramadan
- PSE-64 - Mohammad Maher Bader
- PSE-65 - Azam Salhab
- PSE-75 - Nayef Rjoub
- PSE-84 - Ibrahim Dahbour
- PSE-85 - Ahmad Mubarak
- PSE-86 - Omar Abdul Razeq Matar
- PSE-87 - Mohammad Ismail Al-Tal
- PSE-89 - Khaled Tafesh
- PSE-90 - Anwar Al Zaboun

Parliamentarians reportedly currently subject to criminal proceedings:
- PSE-103 - Naser Ab Al Jawad

Parliamentarians reportedly subject to criminal proceedings in recent years:
- PSE-28 - Muhammad Abu-Tair
- PSE-78 - Husni Al Borini
- PSE-79 - Riyadgh Radad
- PSE-80 - Abdul Rahman Zaidan
Parliamentarians subject to the withdrawal of their Jerusalem residence permit:
PSE-28 - Muhammad Abu-Tair
PSE-29 - Ahmad Attoun
PSE-30 - Muhammad Totah

Alleged human rights violations:
✓ Arbitrary arrest and detention
✓ Inhumane conditions of detention
✓ Lack of due process at the investigation stage
✓ Lack of fair trial proceedings
✓ Violation of freedom of movement

A. Summary of the case

The original case concerned parliamentarians who, in mid-
2006, were seized by Israeli Defence Forces in the
occupied West Bank and Jerusalem and transferred to
Israeli prisons. All of the parliamentarians had been elected
in January 2006 on the Electoral Platform for Change and
Reform (Hamas). On 25 September 2006, an Israeli
military appeal court in the West Bank overturned a court
decision to release them and ordered that they remain in
prison pending trial. All were charged with being members
of a terrorist organization, namely Hamas, carrying out
activities on its behalf and providing it with services. Most
received prison sentences of about 40 months and were
released after serving them. Over the years, several have
been rearrested, with most of them subject to
administrative detention and some to criminal prosecution.
Currently, two members of the Palestinian Legislative
Council (PLC), namely Mr. Hasan Yousef and Ms. Khalida
Jarrar, are in administrative detention and one, Mr. Naser
Abd Al Jawad, is reportedly facing criminal proceedings.

Mr. Ahmad Attoun, who was released in February 2009, as
well as Mr. Muhammad Abu-Tair and Mr. Muhammad
Totah, both released in 2010, had their Jerusalem residence permits withdrawn and were ordered to
be deported.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Thanks the head of the Knesset delegation for his most recent letter; regrets nevertheless that
   the letter does not address the concerns raised in these cases directly; regrets therefore all the
   more that he was unable to meet the Committee on the Human Rights of Parliamentarians at the
   139th IPU Assembly;

2. Notes that only two PLC members are currently in administrative detention in Israel, down from
   10 members when it last commented on this case in October 2017; considers, however, that, as
   the 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 and indefinitely, as the
   repeatedly extended detention of the two PLC members shows;

3. Remains deeply concerned in this regard that the practice of administrative detention often
   relies on classified evidence, as the Israeli authorities acknowledge; understands that, at the
   normative level, and at that of the relevant jurisprudence of the Supreme Court, safeguards are
   provided for with a view to preventing the abusive use of administrative detention; underscores
   nevertheless that the reality of administrative detention is quite different, mainly owing to the
lack of any effective possibility for the detainees to defend themselves, with the result that they are open to arbitrary treatment;

4. **Points out** that UN human rights mechanisms and bodies have long voiced their strong concern about the extensive use of administrative detention by the Israeli authorities, such as most recently the UN Human Rights Council in its resolution adopted in March 2018, and that the UN Human Rights Committee called on the Israeli authorities, in its concluding observations adopted in 2014 on the human rights situation in Israel, “to end the practice of administrative detention and the use of secret evidence in administrative proceedings, and ensure that individuals subject to administrative orders are either promptly charged with a criminal offence, or released”;

5. **Calls once again**, therefore, on the Israeli authorities to abandon the practice of administrative detention and to make use only of the regular criminal procedure to justify detention;

6. **Notes** the total absence of information on the reasons for Mr. Naser Abd Al Jawad’s detention under – as it appears – the regular criminal procedure; wishes to receive information from the Israeli authorities on the facts and legal basis that led to his arrest, on whether he has been charged, and if so, whether trial proceedings are taking place, as well as information on his conditions of detention;

7. **Requests** the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;

8. **Requests** the Committee to continue examining this case and to report back to it in due course.