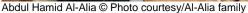


## **Palestine**

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







Ashraf Jumaa © Photo courtesy/Ashraf Jumaa family

Case PSE-COLL-02

is affiliated to the IPU

(10 men and two women)

PSE-88 - Najat Abu Bakr (Ms.)

PSE-92 - Shami Al-Shami

PSE-93 - Nasser Juma

PSE-94 - Jamal Tirawi

PSE-95 - Navema 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

139<sup>th</sup> IPU Assembly (October 2018)

IPU mission: - - -

Recent follow-up

Communication from the authorities: Letter from the Speaker of the Palestinian National Council (August 2018)

Recent Committee hearing: Hearing with the

head of the Fatah parliamentary group at the

Palestine: The Palestinian Legislative Council

Qualified complainant(s): Section I (1) (a) of

Submission of complaint: January 2018

Victims: 12 Members of the Palestinian Legislative Council, members of the majority

the Committee Procedure (Annex 1)

Recent IPU decision: January 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

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

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

- 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.