



Doc. 14021
18 April 2016

Evaluation of the partnership for democracy in respect of the Palestinian National Council

Committee Opinion¹

Committee on Legal Affairs and Human Rights

Rapporteur: Mr Şaban DİŞLİ, Turkey, Group of the European People's Party

A. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights congratulates the rapporteur of the Committee on Political Affairs and Democracy, Mr Jordi Xuclà, on his comprehensive report and supports the proposed draft resolution.
2. The Palestinian National Council was granted partner for democracy status on 4 October 2011 (see [Resolution 1830 \(2011\)](#)). At that time, the Committee on Legal Affairs and Human Rights supported the request of the Palestinian National Council in this respect, concurring with the Political Affairs Committee's conclusions.² In January 2014, the Parliamentary Assembly evaluated this partnership in its [Resolution 1969 \(2014\)](#);³ for which the committee contributed an oral opinion.
3. Since 2014, co-operation between the Palestinian National Council and the Assembly has further developed and the committee welcomes the active participation of the Palestinian partner for democracy delegation in the Assembly's work.
4. While, alongside the Committee on Political Affairs and Democracy, it regrets that the agreements between the Palestinian authorities and the Hamas have not been put into practice and that the negotiations between the Government of Palestine and Israel have not progressed, the committee also encourages the Palestinian Partner for Democracy delegation to continue its efforts to implement democratic reforms in the Palestinian territories.
5. As the abolition of the death penalty, in practice and in law, has always been considered by the Assembly as a crucial commitment not only by member and observer States but also by partners for democracy, the committee wishes to propose one amendment to further strengthen the draft resolution in this respect, as well as another amendment.

1. Reference to Committee: Bureau decision, Reference 4025 of 31 January 2014. Reporting committee: Committee on Political Affairs and Democracy. See [Doc. 14002](#). Opinion approved by the committee on 18 April 2016.

2. See the committee's opinion on "Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Palestinian National Council" (rapporteur: Mr Tiny Kox, Netherlands, UEL), [Doc. 12711](#).

3. [Resolution 1969 \(2014\)](#) on the evaluation of the partnership for democracy in respect of the Palestinian National Council, adopted on 28 January 2014, see report by Mr Tiny Kox (Netherlands, UEL), Committee on Political Affairs and Democracy, [Doc. 13382](#).



B. Proposed amendments

Amendment A (to the draft resolution)

At the end of paragraph 7.2, add the words “and urges the Palestinian National Council to intervene with the Hamas authorities to stop executions in Gaza and to abolish the death penalty in the Palestinian Penal Code, in line with the commitment entered into under the partnership for democracy”.

Amendment B (to the draft resolution)

After paragraph 7.8, add the following paragraph: “regrets that some members of the Palestinian Legislative Council are detained by the Israeli forces.”

C. Explanatory memorandum by Mr Şaban Dişli, rapporteur for opinion

1. I can only congratulate Mr Xuclà on his report, which takes stock of the developments in Palestine and of the implementation of the commitments undertaken by the Palestinian National Council in October 2011.
2. I should like, however, to propose two amendments to the draft resolution, with a view to reinforcing the Assembly's position on the abolition of the death penalty, both in practice and in law. The amendments are in compliance with previous positions taken by the Assembly in [Resolution 1830 \(2011\)](#) on the request for partner for democracy status with the Parliamentary Assembly submitted by the Palestinian National Council and [Resolution 1969 \(2014\)](#) on the evaluation of the partnership for democracy in respect of the Palestinian National Council.

1. Amendment A (to the draft resolution)

Explanatory note:

The Parliamentary Assembly is opposed to the death penalty in all circumstances and has been a driving force in abolishing the death penalty and in eradicating this inhuman punishment from almost all of Europe. Repeatedly, the Assembly has urged Council of Europe observer States “to join the growing consensus of democratic countries that protect human rights and human dignity by abolishing the death penalty” ([Resolution 1807 \(2011\)](#) “The death penalty in Council of Europe member and observer States: a violation of human rights”). The same applies to partners for democracy and it is important to strongly reiterate the Assembly's call to the Palestinian National Council to abolish the death penalty both in practice and in law.

By becoming a partner for democracy on 4 October 2011, the Palestinian National Council committed itself to “continuing [its] efforts to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of issues relating to the abolition of the death penalty and to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions ... since 2005”.⁴

In its [Resolution 1830 \(2011\)](#), the Assembly added that “abolishing the death penalty set out in the Penal Code, going beyond the *de facto* moratorium on executions which has been effective, at least in the West Bank, since 2005” is of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in the Palestinian territories.

While a *de facto* moratorium is in force in the West Bank since 2005, courts in Gaza continue to hand down death penalty sentences and Hamas authorities continue to carry out executions, as noted in the draft resolution based on Mr Xuclà's report.

The Assembly should therefore once again strongly urge the Palestinian National Council to abolish the death penalty in the Palestinian Penal Code.

4. [Resolution 1830 \(2011\)](#) on the request for partner for democracy status with the Parliamentary Assembly submitted by the Palestinian National Council.

2. Amendment B (to the draft resolution)

Explanatory note:

This amendment aims to point out that several members of the Palestinian Legislative Council are detained by Israeli forces, which may also have impacts on the restoration of the functioning of the Palestinian Legislative Council. Also referring to the decision adopted unanimously by the Governing Council of the Inter-Parliamentary Union (IPU) at its 197th session (Geneva, 21 October 2015), it is noted that “while most of the parliamentarians concerned were released upon serving their sentences, many were subsequently rearrested, sometimes several times, and placed in administrative detention”. Therefore, the committee remains deeply concerned that the Israeli authorities are reluctant to show restraint and respect for the parliamentary mandate which the legislators concerned were given in the elections.