



Doc. 14583 – Compendium of written amendments
09/10/2018

(Final version)

The treatment of Palestinian minors in the Israeli justice system

Contents	Page
A. Draft Resolution	2

A. Draft Resolution

1. Recalling its Resolution 2202 (2018) "The Israeli-Palestinian peace process: the role of the Council of Europe", the Parliamentary Assembly reiterates its support for a two-State solution to the Israeli-Palestinian conflict, based on the 1967 borders. The Assembly is convinced that the two sides to the conflict and the international community (including the Council of Europe and its Assembly) must work together to overcome obstacles to the peace process.
2. One of the obstacles to the peace process is the hardening of attitudes on both sides, to the detriment, in particular, of children and the young generation. In its Resolution 2204 (2018) on protecting children affected by armed conflicts, the Assembly underlined the importance of educating children and young people who have experienced traumatising armed conflicts on non-violent approaches to ending aggression and conflict, in order to make them resilient to the trans-generational transmission of violence and allow them to grow up in a culture of constructive dialogue.
3. The Parliamentary Assembly has always made the defence of human rights, in particular the rights of children (aged 0-18), its priority. In its Resolution 2010 (2014) "Child-friendly juvenile justice: from rhetoric to reality", it reiterated its support for the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, which take into account the unique needs of children when they come into contact with the justice system. The Assembly is one of the rare fora which combines expertise on children's rights and the Middle East with wide parliamentary representation.
4. Bringing law and practice into conformity with the human rights standards modelling juvenile justice at international and European level not only serves the best interests of the child – a primary consideration – but is also less costly and more likely to ensure public safety and help young people to reach their potential. In the case of the Israeli-Palestinian conflict, such a move would also help the peace process as the treatment of Palestinian minors in the Israeli justice system tarnishes the image of Israel as a democratic State which respects human rights and the rule of law. However, while very much regretting the absence of progress in the underlying conflict, the Assembly would not like to take position on this conflict, but take only the side of children, based on international and European law and standards.

Amendment 2

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 1, replace the words "based on the 1967 borders" with the following words: "which could be based on the 1967 borders, should the parties agree on the terms of that solution".

Amendment 3

(If adopted, amendment 1 falls)

Tabled by Mr Valeriu GHILETCHI, Mr Rónán MULLEN, Mr Davor Ivo STIER, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 4, delete the second sentence.

Amendment 1

(Falls if amendment 3 is adopted)

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 4, second sentence, replace the words "Israeli justice system" with the following words: "military juvenile justice system".

Amendment 6

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, after paragraph 4, insert the following paragraph:

"Furthermore, the Assembly recognises that the high rates of involvement of Palestinian minors in criminal activity which introduces them to the military juvenile justice system is a symptom of a larger problem: the incitement and indoctrination of children to terror, the glorification of terrorist activity, and the financial support of terrorism."

5. According to the United Nations Children's Emergency Fund (UNICEF) and the vast majority of non-governmental organisations (NGOs) (international, Palestinian and Israeli), ill-treatment of Palestinian minors in the Israeli military detention system is widespread, systematic and institutionalised throughout the process, from the moment of arrest until the child's prosecution and eventual conviction and sentencing. The Israeli military court system also fails to comply with basic standards applicable to children as regards due process. Notwithstanding that the criminal behaviour of some Palestinian minors should be strongly condemned, since no person, and especially no child, forfeits his/her human rights, no matter what he/she has done, there is no excuse for ill-treatment of a child.

Amendment 4

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, replace paragraph 5 with the following paragraph:

"According to UNICEF and a number of NGOs (international, Palestinian and Israeli), there are instances of ill-treatment of Palestinian minors in the military juvenile justice system of Israel. Israeli treatment of Palestinian minors should be assessed in accordance with the standards of applicable international humanitarian law."

6. The Parliamentary Assembly thus calls on the Israeli authorities to work with UNICEF, the International Committee of the Red Cross, civil society and all relevant stakeholders with a view to changing, as appropriate, laws, practice and attitudes so as to fully protect the rights of Palestinian children in the Israeli justice system. The Assembly stands ready to assist the Knesset and the Palestinian authorities in this regard. In particular, the Assembly recommends that:

Amendment 5

(If adopted, amendments 8, 9 falls)

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, replace paragraphs 6 and 6.1 to 6.11 with the following paragraphs:

"The Parliamentary Assembly thus calls on the Israeli authorities to work with UNICEF, the International Committee of the Red Cross, civil society and all relevant stakeholders with a view to changing, as appropriate, the laws, the practice and the attitudes so as to fully protect the rights of Palestinian children in the military juvenile justice system in accordance with applicable international humanitarian law, taking into account all relevant factors, including the security concerns of the State of Israel. The Assembly stands ready to assist the Knesset and the Palestinian authorities in this regard. The Assembly also calls for an examination of the actions by Palestinian actors that encourage minors to take part in criminal activity. This investigation should examine the following issues: - Palestinian minors/children are exposed to continuous and systematic indoctrination of incitement and are encouraged

to participate in violence towards Jewish people through their education system and the Palestinian Authority official TV Channel. - There is widespread glorification of individuals and their families who become "martyrs" by committing violent acts, including young people and women, who get schools, streets and stadiums named after them. - There are financial incentives and direct payments to families of those who have been imprisoned or killed during these attacks, including suicide bombers."

Amendment 8

(Falls if amendment 5 is adopted)

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 6, first sentence, replace the words "Israeli justice system" with the following words "military juvenile justice system".

- 6.1. the provisions of international law related to the rights of children (including of children in conflict with the law) be fully applied, and endeavours be made to apply the higher Council of Europe standards included in its Guidelines on child-friendly justice, thus truly making the best interests of the child a primary consideration;
- 6.2. each individual case be carefully reviewed before any intervention takes place, to ascertain whether the arrest, detention or imprisonment of a child is really necessary, mindful of the provisions of the United Nations Convention on the Rights of the Child (UNCRC), which stipulate that such arrest, detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time;
- 6.3. night-time arrests (or summons) of children in their homes and night-time interrogations be avoided;
- 6.4. handcuffing and strip-searching children be limited as far as possible, and the blindfolding/hooding of children be prohibited;
- 6.5. parents be promptly notified of an arrest, the reasons therefore, and the place where the child is detained;
- 6.6. all forms of physical, psychological or other abuse of children during arrest, transit and waiting periods – and during interrogations themselves – be ended (including coercive tactics to make minors confess or sign confessions in a language they do not understand), and that measures be taken to prevent such abuse;
- 6.7. audiovisual recordings of all interrogations be made mandatory, and that children be informed of their rights in a language and manner they can understand, so that they can exercise their rights effectively, including the right to remain silent and to speak to a lawyer before interrogations;

- 6.8. the rules on interrogations be revised to make them consistent with the Guidelines on child-friendly justice, and the conditions under which bail and plea bargains are granted be revised to make them consistent with the UNCRC;
- 6.9. no child be held in administrative detention or solitary confinement for any reason;
- 6.10. Palestinian children be held in facilities located in the occupied Palestinian territories and that the rights of family members to visit be fully respected in practice;
- 6.11. a system of effective oversight be put in place to prevent and punish ill-treatment of Palestinian children in the Israeli justice system, ensuring redress and adequate reparation to child victims of ill-treatment and ending the impunity for the perpetrators of such abuse.

7. The Parliamentary Assembly calls on Israel to raise the age of criminal responsibility of children to at least 14 years of age for all children who come under its jurisdiction, in conformity with Resolution 2010 (2014).
8. The Parliamentary Assembly calls on the Israeli and the Palestinian authorities to educate children and young people in their communities on non-violent approaches to ending aggression and conflict with a view to giving new life to the peace process.

Amendment 9

(Falls if amendment 5 is adopted)

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, paragraph 6.11, replace the words "Israeli justice system" with the following words "military juvenile justice system".

Amendment 7

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Mr Emanuelis ZINGERIS, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the draft resolution, after paragraph 8, insert the following paragraph:

"The Assembly also calls on the Palestinian authorities to immediately terminate the encouragement of violence in Palestinian media, the glorification of martyrs in Palestinian education, and financial incentives to families of those imprisoned or killed during attacks on Jews."

Amendment 10

Tabled by Mr Valeriu GHILETCHI, Mr Davor Ivo STIER, Mr Rónán MULLEN, Sir Jeffrey DONALDSON, Mr Georgii LOGVYNSKYI

In the title of the draft resolution, replace the words "Israeli justice system" with the following words "military juvenile justice system".