



# INTER-PARLIAMENTARY UNION

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## **CASE No. PAL/04 - HUSSAM KHADER - PALESTINE / ISRAEL**

***Resolution adopted unanimously by the IPU Governing Council at its 180<sup>th</sup> session  
(Nusa Dua, Bali, 4 May 2007)***

The Governing Council of the Inter-Parliamentary Union,

*Referring* to the case of Mr. Hussam Khader, a former member of the Palestinian Legislative Council, as outlined in the report of the Committee on the Human Rights of Parliamentarians (CL/180/12(b)-R.1), and to the resolution adopted at its 179th session (October 2006); *referring* further to the report of the IPU observer, Mr. Simon Foreman, on Mr. Khader's trial submitted at its 177th session (October 2005),

*Taking account* of the information provided by one of the sources on 27 April 2007,

*Recalling* the following:

- Mr. Hussam Khader was arrested on 17 March 2003 at his home in Balata refugee camp by the Israeli Defence Forces and was charged with (a) performance of a service for an unauthorized organization, (b) an attempt wilfully to cause death, and (c) failure to prevent three offences; at the court hearing of 4 September 2005, at which an IPU trial observer was present, Mr. Khader, on the basis of a plea bargain, confessed to three of the charges as amended (performance of a service for an unlawful association, provision of implements for the execution of a felony, and failure to prevent an offence), none of which signify any personal involvement in violent acts; the Military Court of Samaria convicted him accordingly; a plea bargain was also reached regarding the sentence, and on 27 November 2005 the judge sentenced him to seven years' imprisonment and a period of parole of five years, with 12 months' imprisonment should he break his parole, starting from the day of his release;
- the IPU trial observer, Mr. Simon Foreman, concluded that Mr. Khader "has not, since his arrest [in March 2003], had the benefit of compliance with the international rules of fair trial", and that "these shortcomings give the impression that Israel has, for the sake of combating terrorism, abandoned the idea of ensuring absolute respect in all circumstances for the physical and mental integrity of prisoners, which nonetheless is an overriding obligation from which no exceptional circumstance allows any derogation",

*Recalling* the comments on the report submitted on 27 April 2006 by the Diplomatic Adviser to the Speaker of the Knesset, together with the Committee's corresponding observations shared with the Israeli parliamentary authorities in July 2006 for any further observations they might have, and *noting* that they have supplied no further comments; *recalling* in this respect more particularly that, in response to the affirmation of the Diplomatic Adviser that "no claim of cruel, inhuman or degrading treatment was raised by Mr. Khader during the entire judicial process", the Committee, on the basis of the report of a trial hearing at which Mr. Foreman was present, pointed out that Mr. Khader had addressed the court and described in detail the torture to which he had been subjected, such as sleep deprivation, placing of a bag over his head, or being kept for up to two days with his hands and legs tied (shabeh position),

*Recalling* lastly that, according to the sources, Mr. Khader's conditions of detention have worsened since April 2006, particularly regarding the right to receive visits, letters and medical care: Mr. Khader has been held for one year with one other prisoner in a small room in the isolation section of Beer Saba Prison's Section 4; he is not able to mix and socialize with other prisoners and both have only limited time out of the cell; while Mr. Khader's mother and sister are in principle permitted to visit him twice every six or seven months, the permits are stamped in such a way during the first visit that they can only be used for that one visit, after which the mother and sister have to reapply for a new permit; while his

children can in theory visit him every two weeks, in practice these visits seldom take place since the children have to be accompanied by an adult family member holding a permit and this, as noted, is very infrequently the case; Mr. Khader and other prisoners reportedly continue to be denied access to proper medical treatment and medicines; accounts for prisoners to receive small amounts of money have been closed and Mr. Khader therefore has no means to buy food and basic supplies,

*Considering* that, according to one of the sources, during the past seven months Mr. Khader's mother has not been given permission to visit her son for security reasons; that his brother, Mr. Ghassan Khader, had to go to the Ministry of Interior to prove that he was his brother and that he submitted his papers twice but has had no answer for over two years, and that Mr. Khader's family occasionally receives letters that he mailed but usually months after the date of posting,

1. *Deeply regrets* the absence of any communication from the parliamentary authorities, all the more so given the serious concerns it has expressed in its previous resolution regarding Mr. Khader's conditions of detention and the failure of the Israeli authorities to investigate the complaint Mr. Khader made in court of torture and ill-treatment during detention;
2. *Reaffirms* that the Israeli authorities have a duty under the United Nations Convention against Torture (CAT), to which Israel is a party, to investigate the evidence given in court by Mr. Khader and the main prosecution witness that they were tortured and ill-treated; and *urges* the Knesset to exercise its oversight powers to ensure compliance with Israel's obligations under CAT;
3. *Expresses deep concern* at Mr. Khader's conditions of detention, with regard in particular to his extremely limited visiting rights; and *recalls* in this respect Rule 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which stipulates that "prisoners shall be allowed [...] to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits";
4. *Fails in particular to understand* how Mr. Khader's mother can possibly constitute a security risk, and *would appreciate* receiving clarification in this respect together with detailed information on Mr. Khader's conditions of detention and state of health;
5. *Firmly restates* its conviction, in the light of Mr. Foreman's report on Mr. Khader's trial, that Mr. Khader has not enjoyed a fair trial, without which there can be no fair establishment of guilt;
6. *Calls once again* on the Israeli authorities to transfer Mr. Khader forthwith to the competent Palestinian authorities;
7. *Reiterates its wish* that a Committee member pay a private visit on Mr. Khader in prison, and *requests* the Secretary General to pursue his contacts with the Israeli parliamentary authorities to this end;
8. *Requests* the Committee to continue examining this case and report to it at its next session, to be held on the occasion of the 117th Assembly (October 2007).