



PROVISIONAL VERSION

## Situation in the Middle East

### Report

Committee on Political Affairs and Democracy

Rapporteur: Mr Pietro MARCENARO, Italy, Socialist Group

### *Summary*

The Committee on Political Affairs and Democracy reiterates its support to the “two states for two peoples” solution to the Israeli-Palestinian conflict based on the 1967 borders, with limited and mutually agreed land swaps. Regretting the lack of progress in the peace process since 2010, the Committee welcomes the newly intensified efforts of the American administration for a rapid resumption of the negotiations with a view to a long-lasting and just solution. Pending such a permanent settlement, interim arrangements could be made.

The report notes that, in parallel to status issues, those of standards should also be addressed so that, ultimately, whether in territories under Israeli or Palestinian control, all people, Arabs and Jews, Israeli and Palestinian citizens, can equally enjoy respect for human rights, democracy and the rule of law. Therefore, it proposes that the requirement of “two states for two peoples” be further qualified as a requirement for “two democratic and pluralist states”. It calls on the Israeli authorities and on all Palestinian forces – including Hamas – to take the appropriate measures to reach this goal.

Finally the Committee suggests that the Assembly continue to promote dialogue and confidence building between representatives of the Knesset and the Palestinian National Council, in particular in the framework of its Sub-Committee on the Middle East, and pursue efforts to establish relations with other parliaments in the region, notably in Egypt and Jordan, in particular in the light of the prospects for co-operation offered by the partner for democracy status.

## **A. Draft resolution<sup>1</sup>**

1. The Parliamentary Assembly recalls its earlier resolutions on the matter and reaffirms its position and appeals to all parties concerned as lastly expressed in Resolutions 1700 (2010) on the Situation in the Middle East and 1748 (2010) on Flare-up of tension in the Middle East. It reiterates, in particular, its support to two equally legitimate aspirations: Israel's right to be recognised and exist in safety and the Palestinians' right to have an independent, viable and contiguous state.
2. However, since 2010, the peace process between Israelis and Palestinians has not progressed; the several times announced Palestinian reconciliation has not taken place; the building of Israeli settlements in the occupied territories, including in East Jerusalem, has continued and so has the construction of an extensive network of roads and tunnels to serve them and link them with Israel, as well as the building of "separation barriers"; rockets have continued to be launched from the Gaza Strip into Israel.
3. At the same time, the Assembly notes that a number of developments have since had an influence on the situation, such as the Arab revolutions; the continued development of Iran's nuclear programme; the civil war in Syria; the recognition of a state of Palestine by the United Nations General Assembly in November 2012; the granting of partner for democracy status with the Assembly to the Palestinian National Council; elections held in Israel in January 2013; the re-building of relations between Israel and Turkey, under the auspices of President Obama, and the recently renewed efforts of the American administration towards a resumption of the Israeli-Palestinian peace negotiations.
4. As of the beginning of 2011, mass movements in many Arab countries led to a transformation of the political landscape. In Syria, the civil war has killed almost 100 000 people, caused more than 1.2 million refugees and several million internally displaced persons.
5. The Assembly recalls its Resolutions 1791 (2011), 1819 (2011) and 1893 (2012) on the Situation and Political transition in Tunisia, 1831 (2011) on Co-operation between the Council of Europe and the emerging democracies in the Arab world and 1892 (2012) on the Crisis of transition to democracy in Egypt, as well to Recommendation 1957 (2011) on Violence against Christians in the Middle East. Whether there should be optimism or pessimism about the evolution of the "Arab Spring", the Assembly reiterates its support, to those who fight for human rights, democracy and the rule of law. The road to democracy has always been long and difficult, and not only in the Arab world. Furthermore, the idea that stability can be guaranteed, as in the past, by dictators, is not only immoral but is also devoid of all political realism.
6. The Assembly refers to its Resolutions 1878 (2012) on the Situation in Syria and 1902 (2012) on the European response to the humanitarian crisis in Syria, as well as to the current affairs debate on Syrian refugees in Jordan, Turkey, Lebanon and Iraq: how to organise and support international assistance, held in April 2013 following a visit to the Za'atri Syrian refugees' camp in Jordan by the Sub-Committee on the Middle East of its Committee on Political Affairs and Democracy. Concerned about recent acts of hostility of the Assad regime against Israel and other neighbouring countries, it warns against an escalation of the conflict.
7. The Assembly expresses its gratitude to the Jordanian authorities, as well as those of Turkey and Lebanon, in hosting and assisting thousands of Syrian refugees. It calls on the Council of Europe member, partner and observer States, as well as the international community as a whole, to increase their assistance to the Kingdom of Jordan in view of the immense daily needs of the Syrian refugees. It also pays tribute to the overall role played by Jordan as a stabilising factor in the region and key actor in the search of a fair and just solution to the Israeli-Palestinian conflict.
8. The Assembly reiterates its support for a "two states for two peoples" solution to the Israeli-Palestinian conflict, based on the 1967 borders, which, in view of the new realities on the ground, could be accompanied with limited land swap, as has recently been accepted by the Arab countries. It supports, in particular, the newly intensified efforts of the American administration for a rapid resumption of the negotiations between Israelis and Palestinians with a view to a long-lasting and just solution.
9. At the same time, the Assembly considers that, pending such a permanent settlement and with a view to facilitating its conclusion, interim arrangements could be made, such as an agreement on conflict management methods, confidence-building measures and continued pragmatic cooperation on the ground.

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<sup>1</sup> Draft resolution adopted unanimously by the Committee on 5 June 2013.

10. Easing measures should include *inter alia*: the release of imprisoned Palestinian Legislative Council members; concrete steps to freeze the building of new settlements; the ceasing of home demolitions and forced evictions; the lessening of the obstacles to the movement of people and goods on the West Bank and with Israel and the issuing of more working permits in Israel; reconsideration of the possibility of family reunification and revision of the law on marriage; cooperation on security matters, and the transfer to the Palestinian Authority of West Bank parts of Area C currently under full Israeli control.

11. The Assembly notes that, in parallel to status issues, those of standards should also be addressed so that, ultimately, whether in territories under Israeli or Palestinian control, all people, Arabs and Jews, Israeli and Palestinian citizens, will equally enjoy respect for human rights, democracy and the rule of law. Therefore, it believes that the requirement of “two states for two peoples” should be further qualified as a requirement for “two democratic and pluralist states”.

12. The Assembly welcomes the liberation of Israeli soldier Shalit and more than one thousand Palestinian prisoners and recalls its Resolution 1830 (2011) whereby it granted the partner for democracy status to the Palestinian National Council.

13. In order to ensure or further enhance respect for human rights, democracy and the rule of law in the territories under their control and facilitate the resumption of peace negotiations, the Assembly calls on:

13.1. the Israeli authorities to:

- 13.1.1. guarantee equality of individual rights among all Israeli citizens, including members of the Arab minority, and recognise minority rights to the latter;
- 13.1.2. put an end to arbitrary arrests and administrative detentions of Palestinians (including of scores of children), unfair trials and acts of violence against detainees, as well as stop transferring Palestinian detainees in Israeli prisons in violation of international humanitarian law;
- 13.1.3. release imprisoned members of the Palestinian Legislative Council and a large number of other prisoners according to the Annapolis agreement; allow members of the Palestinian partner for democracy delegation to the Assembly to travel to Assembly meetings;
- 13.1.4. stop the building of new settlements and the extension of old ones, cease all home demolitions, forced evictions and confiscation of land in the occupied territories, including in East Jerusalem; allow Palestinians take control over their natural resources (with special emphasis to water); lift restrictions to the freedom of movement of Palestinians in the West Bank and stop hindering access to their land, workplaces, education, health and other services and facilities; stop the construction of the so called “separation wall”, in exchange of appropriate security guarantees;
- 13.1.5. lift the blockade of Gaza;

13.2. all Palestinian forces to:

- 13.2.1. conclude without further delay, in transparency, the several times announced reconciliation between the Fatah and the Hamas based on the Quartet principles, thus also enhancing the credibility of the Palestinian side in the negotiations with Israel; in this respect, the Assembly encourages Egyptian President Morsi to intensify his mediation efforts;
- 13.2.2. organise the long overdue presidential and parliamentary elections;
- 13.2.3. refrain from the use of violence against Israeli citizens and anti-Israeli rhetoric, as well as from including suicide bombers and other terrorists among Palestinian martyrs as such phenomena undermine a culture for peace;
- 13.2.4. put an end to arbitrary detentions and acts of violence against detainees.

14. The Assembly is in particular concerned of human rights violations committed in the Hamas-controlled Gaza Strip, including executions after unfair trials, summary executions of Palestinians accused of spying for Israel and the indiscriminate rocket launching against Israel killing civilians. It therefore urges the Hamas to stop human rights violations and bring to justice perpetrators; introduce an immediate moratorium to executions pending de jure abolition of the death penalty; recognise the right of the State of Israel to exist and endorse the Arab peace plan; stop rocket launching and all types of attack against Israel, reject the use of terrorism and combat it effectively.

15. The Assembly underlines that respect for human rights, democracy and the rule of law by both Israelis and Palestinians can contribute to the success of the negotiations for a peace agreement in rebuilding trust among the parties, but also subsequently, as any peace agreement will only be the beginning of a long process of reconciliation after decades of conflicts. In this context, the Council of Europe and its Parliamentary Assembly can make their own specific contribution.

16. Therefore, the Assembly resolves to:

16.1. continue to promote dialogue and confidence-building between representatives of the Knesset and the Palestinian National Council, in particular in the framework of the Sub-Committee on the Middle East of its Committee on Political Affairs and Democracy;

16.2. make available to both representative bodies its own experience in the field of human rights, the rule of law and democracy;

16.3. pursue efforts to establish relations with other parliaments in the region, notably in Egypt and Jordan, in particular in the light of the prospects for co-operation offered by the partner for democracy status. In this respect, the Assembly welcomes the interest expressed by the Speaker of the House of Representatives of the Kingdom of Jordan in obtaining the status of partner for democracy, already granted to the Parliament of Morocco and the Palestinian National Council in 2011.

17. The Assembly welcomes the Council of Europe's intergovernmental action with respect to Jordan and asks the Secretary General to enhance also relations with Israel and the Palestinian Authority with a view to designing a contribution by the Organisation in promoting respect for human rights, the rule of law and democracy in the region.

18. It decides to continue to follow closely the situation in the Middle East and in particular the progress of the Israeli-Palestinian peace process and the situation of human rights, democracy and the rule of law in the region.

## **B. Explanatory memorandum by Mr Marcenaro, rapporteur**

### **1. Introduction**

1. The Parliamentary Assembly has been following closely the situation in the Middle East and has adopted several resolutions on the matter in the last ten years: Resolutions 1420 and 1452 (2005); Resolutions 1493 and 1520 (2006); Resolution 1550 (2007), and Resolutions 1700 and 1748 (2010).

2. Since 2010 we should welcome the liberation of Israeli soldier Shalit and that of more than one thousand Palestinian prisoners. However it is regrettable that, the peace process between Israelis and Palestinians has not progressed; the several times announced Palestinian reconciliation has not taken place; the building of Israeli settlements in the West Bank, and of the “separation wall”, have continued, as have rockets launched from the Gaza Strip into Israel.

3. Several events have, however, had an influence on the situation: the so-called “Arab Spring”; the civil war in Syria; the continued development of Iran’s nuclear programme; the recognition of a state of Palestine by the United Nations General Assembly; and the recent elections in Israel. As concerns the Assembly itself, a relevant recent development has been the granting of partner for democracy status to the Palestinian National Council in October 2011.<sup>2</sup>

4. I was appointed Rapporteur in November 2011 and I had the opportunity to visit the area on the occasion of the meetings of the Sub-Committee on the Middle East, of the Committee on Political Affairs and Democracy, in Jordan and Palestine on 6-9 April and in Israel on 28 April-1st May, where I collected most of the material for the present report.

5. We stated time and again that the Council of Europe was not the United Nations or the European Union. The Parliamentary Assembly was perfectly aware that its role was not that of solving issues such as the status of Jerusalem, the return of refugees, the borders between Israel and Palestine or the Israeli settlements.

6. The Assembly had, however, set up a Tripartite Forum with the Knesset and the Palestinian Legislative Council, to discuss at parliamentary level issues which could improve the daily life of the populations concerned. With the passage of time, and after holding many discussions, even this approach has failed.

7. The Sub-Committee on the Middle East, in which both the Israeli Observer delegation from the Knesset and the partner for democracy delegation from the Palestinian National Council take part, remains however an open channel to be used whenever the two delegations see fit.

8. I believe that, for its part, the Assembly, whilst encouraging and supporting any initiative which could bring an end to the conflict, should concentrate on the core business of the Council of Europe and try to assess the state of democracy, the protection of human rights and the functioning of the rule of law rather than limiting itself to the political aspects of the peace process.

### **2. The “Arab Spring”**

9. In October 2011, the Assembly adopted Resolution 1831 (2011) on Co-operation between the Council of Europe and the emerging democracies in the Arab world. It welcomed, and expressed its full support for, the emergence of democratic regimes in that region and recognised Europe’s responsibility in helping to “bring about a peaceful transition to democracy and respect of human rights in the Arab countries concerned, some of which are its immediate neighbours, with humility and mutual respect, and prevent the emergence of military or theocratic regimes, or degeneration into chaos following a prolonged absence of authority”.

10. In this Resolution, the Assembly expressed its belief “that the stability of the Arab world aspiring to democracy would be facilitated by finding a solution to the main conflicts which remain in the region; it calls, in particular, on the Israelis and the Palestinians to take advantage of the opportunity brought about by the Arab revolutions to reopen peace negotiations, on the basis of the principles it already set out in its Resolution 1700 (2010) on the situation in the Middle East.”

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<sup>2</sup> See Resolution 1830 (2011) on [Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Palestinian National Council](#).

11. The Assembly addressed the specific situation in several countries and adopted Resolutions 1791 (2011), 1819 (2011) and 1893 (2012) on the Situation and Political transition in Tunisia; Resolution 1892 (2012) on the Crisis of transition to democracy in Egypt; Resolution 1878 (2012) on the Situation in Syria. The specific issue of Violence against Christians in the Middle East was addressed in Recommendation 1957 (2011).

12. Furthermore, it held six urgent procedure debates on related issues: flare-up of tension in the Middle East in June 2010, the Situation in Tunisia and Recent violence against Christians in the Middle East in January 2011, the Situation in Syria in April 2012, the Crisis of democracy in Egypt in June 2012 and the European response to the humanitarian crisis in Syria in October 2012. Further to our visit to the Syrian refugee camp in Za'atri (Jordan), the Assembly held a current affairs debate on Syrian refugees in Jordan, Turkey, Lebanon and Iraq: how to organise and support international assistance in April 2013.

13. It should be pointed out that no flags of Israel or the USA were burnt in the demonstrations that started the "Arab Spring", as these demonstrations were about more democracy and respect for human rights in their own countries. Today, in mid-2013, the least one can say is that the early optimism and expectations have been considerably toned down. In Egypt and Tunisia, democratic elections led to the establishment of majorities based on Islamic parties within which there is an ongoing confrontation between democratic and moderate positions, on the one hand, and conservative and traditional positions, on the other. In Libya, an armed conflict ousted the former dictator but the situation remains unsettled, with fighting between rival factions still erupting occasionally. Protests have broken out in many other Arab states. While reforms have taken place peacefully in Morocco and in Jordan, in Syria the civil war has killed almost 100 000, caused more than 1.2 million refugees and several million internally displaced persons.

14. Of course the road opened up by the mass movements in so many Arab states is a long and difficult one. It is the relationship between Islam and democracy that is being put to the test in a debate important not only for the region, but for the international community as a whole.

15. Some of our colleagues complained that in those countries where the "Arab Spring" started, namely Egypt and Tunisia, the situation of women and the respect for the rights of minorities had deteriorated. What certainly has deteriorated is their economic situation, as a result of the crisis affecting Europe, together with a sharp decrease in investor confidence and in the tourism industry in view of social and political unrest. I was told that the average salary in Egypt had decreased from around 60 USD per month to around 35 USD.

16. The "Arab Spring" was inevitable and a good thing in itself, as we were also told by the Speaker of the Knesset. Clearly, the road to democracy is long and sometimes bumpy but there is no going back to a situation where stability was "guaranteed" by dictators. The Council of Europe – and its Parliamentary Assembly – as a platform for dialogue on democracy, human rights and the rule of law, should continue to assist the Arab countries, which so wish, in their reform process.

### **3. Other recent developments**

17. The Parliamentary Assembly decided to grant partner for democracy status to the Palestinian National Council (PNC) in October 2011. Since then the PNC delegation has participated very actively in the works of the Committee on Political Affairs and Democracy and of the Assembly as a whole.

18. Also in October 2011, the General Conference admitted Palestine as a Unesco Member by 107 votes in favour and 14 votes against, with 52 abstentions. Finally, in November 2012, the United Nations General Assembly accorded Palestine non-Member Observer State status in the United Nations by an overwhelming majority of 138 votes in favour to 9 against, with 41 abstentions.

19. These decisions do not change the situation on the ground, nor do they create a Palestinian state where it does not yet exist. However, they are an indication of a strong support of the international community for an independent Palestinian state, and recognition of the efforts by President Abbas and his team.

20. Following his nomination on 1 February 2013 as Secretary of State by President Obama, John Kerry undertook renewed efforts of mediation between Israelis and Palestinians. President Obama himself visited the region in March 2013. When we met President Abbas on 7 April, he was going to meet with Secretary of State John Kerry later on the same day. When we met with Ms Tzipi Livni on 1<sup>st</sup> May, she was called on the phone by Mr Kerry. This coincidence seems to be an indication that the American administration is committed to make things move, which was confirmed by Mr Kerry himself, who has said that he hopes to

revive Israeli-Palestinian peace talks in the short term. On 26 May 2013 a comprehensive economic plan for the West Bank was announced by Mr Kerry and welcomed by President Abbas and President Perez.

21. At the same time, following President Obama's visit to Israel, Palestine and Jordan, a series of major diplomatic initiatives have occurred: the rebuilding, under the auspices of President Obama, of the relationship between Israel and Turkey; the joint declaration by John Kerry and Sergei Lavrov, Russian Foreign Minister, in favour of an international conference on the Syrian crisis; the Washington meeting of Arab states' Foreign Ministers; the simultaneous visit, albeit not a joint one, to Beijing by Mahmoud Abbas and Benyamin Netanyahu; John Kerry's meeting in Rome with Tzipi Livni and the Jordanian Foreign Minister; the new visit by John Kerry to the Middle East to meet Mahmoud Abbas and Benyamin Netanyahu on 21 and 22 May.

22. It is important, of course, not only for negotiations to be resumed, but also for them to be successful. In this respect, more attentive observers are drawing attention to the possible partial outcomes which may indicate a reversal of the tendency of recent years and lead to a positive development in the situation. These outcomes may include an agreement on conflict management methods which, in the absence of a definitive solution during this phase, which would prevent new and greater crises from breaking out – incidentally, during the meeting with the Sub-Committee, President Abbas expressed a fear of a new intifada, a risk that needed to be avoided; and the creation of conditions for a new UN Security Council resolution setting out detailed guidelines for a possible agreement.

23. The great Israeli political scientist, Shlomo Avineri, wrote that "there is now no chance of a permanent agreement. [...] diplomatic efforts must be invested in alternative arrangements – interim agreements; confidence-building measures; unilateral (but mutually acceptable) steps; and continued pragmatic cooperation on the ground". From the unsuccessful attempt to find a comprehensive solution to small steps to manage the conflict, while still heading firmly towards the diplomatic prospect of a "two states for two peoples" solution. In this context, important easing measures can be identified, such as the release of the prisoners held longest, lessening of the obstacles to the movement of people and goods on the West Bank and with Israel, more work permits in Israel, reconsideration of the possibility of family reunification and revision of the law on marriage, cooperation on security matters, and the transfer to the Palestinian Authority of certain West Bank parts of Area C under full Israeli control.

#### **4. The visits to the region**

24. My predecessor, Mr Vrettos, tried to organise a visit to Israel and Palestine in the spring of 2012 but this proved impossible due to changes in the Israeli government.

25. The Sub-Committee had not met in the region since March 2001 and it started preparations for a meeting in Israel and Palestine in June 2012. A first date was proposed for the end of November but this had to be postponed due to the dissolution of the Knesset and the convening of general elections in Israel for January 2013. The dates were then agreed for the beginning of April but the visit had to be split into two as the Knesset was in recess on that occasion.

26. Both parts of the visit were extremely informative and I wish to thank all the relevant authorities for their cooperation. The final programme for both parts of the visit is reproduced in AS/Pol/Inf (2013) 16.

##### *4.1. Jordan and Palestine (6-9 April 2013)*

###### *4.1.1. Jordan*

27. The visit to the Za'atri Syrian refugee camp had a profound effect on us all. 140 000 refugees, mostly women and children, were there when we visited. The UNHCR and the Jordanian authorities are doing an excellent job and should receive more support from the international community. Unfortunately the problem will only be solved with the end of the war in Syria, and there is no indication that this might happen in the near future.

28. A fair and just solution of the Israeli-Palestinian conflict was referred to as a very important issue by the Speaker of Jordan's House of Representatives and by most of our Jordanian interlocutors. Such solution should increase the prospects for peace and stability in the region and allow the return of the Palestinian refugees who came to Jordan in 1948 and again in 1967.

29. In this context, Jordan supports the Arab Peace Initiative first proposed in 2002 at the Beirut Summit of the Arab League. The Chairperson of the Arab and International Affairs Committee of the House of

Representatives of the Parliament of Jordan expressed hope that Europe would also press for a two-state solution. The Minister for Foreign Affairs also felt that Europe had an important role to play.

30. Jordan is, of course, extremely concerned with the situation in Syria and deplores that the international community finds itself unable to reach a consensus. While the Jordanian parliamentarians that we met agreed that Jordan should continue to assist Syrian refugees, they disagreed on the attitude towards the conflict itself. Some complained that the Syrian opposition was not representative and feared that Salafists might seize power, which they consider to be bad for the region as a whole.

31. As far as the situation in Jordan is concerned, members of parliament recognise that political reform had been modest so far, while members of the non-parliamentary opposition claimed that it was merely cosmetic and that, if the country was to be a real democracy, the constitution should be reformed.

32. I should like to put on record that the Sub-Committee was granted a private audience with His Majesty King Abdullah II, which was most enlightening.

33. In our meeting with the Arab and International Affairs Committee of the House of Representatives, we referred to the status of partner for democracy and we left relevant documentation with its members. I am pleased to point out that, further to our visit, the Speaker of the House of Representatives of Jordan has stated interest in obtaining the status.

#### *4.1.2. Palestine*

34. President Abbas reaffirmed the Palestinian commitment to reach a peace agreement with Israel for a two-state solution based on the pre-1967 borders with mutually agreed land swaps. If this basis was accepted by Israel, a positive outcome could be attained. This same commitment was voiced by many of our other interlocutors.

35. The occupation of their territory by Israel and its colonisation by settlers was referred to by all our Palestinian interlocutors as the reason for all the other problems. While the occupation of the West Bank dates from 1967 and had not changed significantly since then, the settlements in the West Bank have increased and there are now more than 400 000 Israeli civilians (including some members of the present government) living there.

36. In recent years, the growing number of Israeli settlements, the extensive network of roads and tunnels built to serve those settlements and link them with Israel, the very progress of the building of the wall, have veritably transformed the geographical situation and make it problematic to refer to the pre-1967 borders. It was also in response to this situation that the Minister for Foreign Affairs of Qatar, speaking recently in Washington on behalf of all the Arab states, and hoping for a rapid resumption of negotiations, opened up the possibility – firmly within the pre-1967 borders – of a limited land swap.

37. According to Amnesty International, “as Israel’s military blockade of the Gaza Strip entered its sixth year, its impact on basic infrastructure, including water, sanitation and power supplies continued to be severe.”<sup>3</sup>

38. Elections in Palestine were long overdue but had yet to be organised due to opposition by Hamas, which controls the Gaza Strip. Several agreements between Hamas and Fatah, which controls the West Bank, have been announced in the last few years, often brokered by Egypt, but have not yet materialised.

39. The split between Fatah and Hamas was also considered by Israel as a reason why negotiations could not take place, whereas the Palestinians claim that the body which represents them in such negotiations is the PLO (Palestinian Liberation Organisation), which is formally unaffected by the split. However Hamas is not represented in the PLO.

40. Reconciliation between Fatah and Hamas might guarantee for the negotiations with Israel a more authoritative and reliable Palestinian interlocutor, who can speak and make requests and commitments on behalf of all Palestinians and with the guarantee of all Arab states, and who can guarantee compliance with the agreements, starting from those concluded to date. An interlocutor who, while claiming the Palestinian people’s right to create its own state, should acknowledge the state of Israel’s right to live in security. This is why it is important for the agreement with Hamas, who has not yet acknowledged that right, to be concluded on a transparent basis, for its contents to be made public so that everyone – the Palestinian people, Israel

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<sup>3</sup> <http://amnesty.org/en/region/israel-and-occupied-palestinian-territories/report-2013>.



and the international community – can judge its value and meaning in terms of the crucial issues which have, for a long time, been the focal point of discussions and international attention.

41. Other issues raised by Palestinians included the situation of Palestinian prisoners in Israeli prisons, including women and children; the use of torture; administrative detentions; the lack of control over their natural resources – with a special focus on water; severe limitations to free movement inside their own territory; villages being cut off from their fields by the separation wall; and the situation in Gaza. It was also referred to us that revenues from tourism were much less than what they could be if Israeli tour operators did not advise tourists not to stay overnight in Palestine.

42. According to Amnesty International, “Hundreds of Palestinians, including scores of children, were detained by Israeli forces in the Occupied Palestinian Territories and many were held incommunicado for prolonged periods. Most were later released without charge, but hundreds were charged with security-related offences and tried before military courts, whose procedures often failed to meet international standards for fair trial. Almost all Palestinian detainees were held in prisons in Israel in violation of international humanitarian law, which prohibits the transfer of detainees to the territory of the occupying power. This made it difficult or impossible in practice for detainees to receive family visits”.

43. While in Palestine, the Sub-Committee issued an appeal to the Israeli authorities about the case of Mr Isawi, a Palestinian prisoner in Israel who was on hunger strike and was at risk of dying. His case was solved satisfactorily. We were also informed of the impossibility for a member of the Palestinian delegation to the Assembly, Ms Jarrar, to travel in order to attend meetings. The Israeli authorities had said that this was due to the fact that Ms Jarrar was a member of the Palestinian Popular Front – which they consider to be a terrorist organisation – and therefore her “travelling out of the area would endanger public safety”.

44. When we asked what parliamentarians from Europe could do, we were told that we should ensure that our respective governments would recognise the Palestinian government which would result from the next elections, even if it included members from Hamas. In their view, Europe should also ban products produced in the Israeli settlements in the West Bank and put pressure on Israel to respect its obligations.

45. We had an interesting meeting with Mr Ahmed Qurie, who played a key role in the Oslo process. He complained about Israel’s unwillingness to reach an agreement. When asked about Palestinian flexibility he replied that Palestinians were willing to recognise Israel within the 1967 borders and accept only 22% of the historical Palestine; that they were willing to agree to limited land swaps around those borders and to discuss details about Jerusalem and its holy sites, but they were not ready to discuss the fact that East Jerusalem should be the capital of Palestine.

#### *4.2. Israel (28 April - 1 May 2013)*

46. Before the meetings of the Sub-Committee on the Middle East on 30 April – 1<sup>st</sup> May, I had a series of separate meetings with Israeli personalities and NGO representatives on 28-29 April (see appended programme). My comments are based on such meetings as well as on the meetings of the Sub-Committee.

47. The Sub-Committee had very interesting meetings with Mr Yoel Edelstein, Speaker of the Knesset and Ms Tzipi Livni, Minister of Justice and Chief Negotiator in the Israeli-Palestinian peace talks; an interesting dinner hosted by Mr Yaakov Peri, Minister of Science and Technology and former Head of the Israeli Secret Service; a very informative exchange of views with Mr Christophe Bigot, Ambassador of France in Israel; a meeting with Mr Zeev Elkin, Deputy Foreign Minister, and briefings at the Ministry of Foreign Affairs and at the Institute for National Strategic Studies; visits to the Hadassah Medical Centre and to Yad VaShem, Holocaust History Museum.

48. One of the first observations was that the Palestinian issue did not seem to be a priority, either for politicians (it had been absent from the electoral campaign) or for Israelis in general. Palestinians were no longer seen as a threat to the existence of the state of Israel and the separation barrier was seen as an effective protection against suicide bombers.

49. This lack of priority explains the divergence of opinions on the issue among members of the present government. Mr Edelstein, Ms Livni and Mr Peri declared themselves firmly in favour of a two-state solution; while Mr Elkin, who is a settler, seemed to be against. The Deputy Prime Minister Mr Bennett is on record as also being against. The Prime Minister, Mr Netanyahu, had declared that he was in favour of a two-state solution but nobody could explain what exactly his views on the issue were. The present government was based on internal, not external policies.

50. The other members of the Knesset that we met – two from the government (Yesh Atid) and two from the opposition (Meretz and Labour) – also expressed themselves as in favour of a two-state solution. We were told that 60 to 70% of the Israeli population would approve a peace agreement with the Palestinians proposed by the government. Israelis were, however, very suspicious of Hamas, and feared the possibility of this organisation winning future elections in the West Bank. Therefore they ask that any withdrawal of Israel from the West Bank be matched by security guarantees.

51. There are as many Arabs as there are Jews between the Mediterranean and the Jordan River and they should be able to leave in peace with each other. Demography, however, favours the Arabs, and therefore the status quo is not sustainable. The Israeli authorities were thus pressed for action. On the other hand, demography works in the long term and some still feel that time is not pressing.

52. The visit to the Paediatric cardiology unit of Dr Rein in the Hadassah Medical Centre in Jerusalem, and the exchange of views with Dr Gavri Sagui and Dr Muriel Haïm, was a good example of how cooperation between Israelis and Palestinians, at different levels, can work perfectly well, to the benefit of Palestinian children with serious heart conditions, who were able to undergo surgery in Israel.

53. Many of our Israeli interlocutors expressed concern at the development of the Iranian nuclear programme, in particular its uranium enrichment programme. Diplomatic efforts to stop the programme short of developing nuclear weapons capacity were favoured as the best option available. However, failing these, pre-emptive Israeli military action was preferred to letting Iran build a nuclear bomb. To this effect Israeli Prime Minister Netanyahu set a “red line” of Iran’s nuclear capability.

## **5. Democracy, human rights and the rule of law**

### *5.1. With respect to Israel*

54. One of the most sensitive questions is the definition and request for recognition of Israel as a Jewish state. Israel’s status as the ‘national state of the Jewish people’ seems to be an established fact which cannot be called into question again. That was its historical origin and the signification of the resolution approved by the United Nations General Assembly on 29 November 1947, which confirmed the right of the Jewish people to found its own state. And notwithstanding the violence of the conflicts preceding and accompanying its foundation, that state was conceived as a democratic state, governed by a freely elected parliament, and where various minorities were given a guarantee that they would be able to live together with equal rights. The question is whether the assertions made increasingly frequently in recent years by the Israeli authorities about the Jewish character of the state of Israel give rise to any change in this fundamental arrangement. This is not an abstract question, but relates to whether the contradictions in the field of human rights, democracy and the rule of law arising out of the continuation and development of the conflict are regarded as aspects to be remedied, or whether they indicate a new tendency, and ultimately a different character of the state.

55. This is why the problem of the Israeli Arab minority, which constitutes approximately 20% of the population of Israel, is crucial. Many of them complain of being suspected of providing cover for, or of actually being accomplices to, murdering terrorists. And when it is not actual bombing that is feared, there is a “demographic time-bomb” believed to threaten the existence of Israel. All of this brings consequences in terms of the equality of citizens on which the rule of law is based. Some major positive steps have been taken, in respect of, for example, the possibility of performing civil service and thereby gaining access to the benefits and advantages available by law to anyone who has performed military service. But further steps should be examined in respect of both the guarantee of equality of individual rights (such as freedom of movement, the possibility of family reunification, the law on marriage) and the recognition of minority rights.

56. There is also a certain contradiction between the “right of return” granted to every Jew in the world wishing to go to Israel and the denial of a “right of return” for those Palestinians wishing to go back to where they once lived.

57. The allocation of financial resources appears unbalanced. The Arabs, who are at the lower end of the social ladder, only get 10% of the welfare budget. They make up 9% of the Knesset members, 8% of the police and 7% of the civil service. The access of Arabs to land is also unequal as compared to that of the Israelis. As far as access to water, we were told that Israeli settlers use ten times more water than neighbouring Palestinian villages. However, the Deputy Minister for Foreign Affairs told us that measures had been taken to ensure that Arab civil servants progress in their careers faster than their Jewish colleagues in order to correct the imbalance. The OECD, in its Review of recent developments and progress

in labour market and social policy in Israel, also mentions positive discrimination measures in the field of education.

58. According to Amnesty International, “over 500 Israeli checkpoints and barriers in the West Bank, as well as the fence/wall, restricted Palestinians’ movement, particularly in East Jerusalem, part of Hebron, the Jordan Valley and areas near settlements. Palestinians were required to obtain permits from the Israeli authorities while Israelis, including settlers, enjoyed free movement in these areas. There were continued reports of harassment and abuse of Palestinians at checkpoints by Israeli personnel. Movement restrictions also impeded Palestinians’ access to medical care, water and farmland.”<sup>4</sup> Israelis tended to agree that the so-called separation wall was discriminatory against Palestinians and was detrimental to the Palestinian economy, while claiming that it was, however, necessary for security reasons. The Israeli authorities pointed out that the construction had started in 2003, following the second Intifada.

59. In the West Bank, including in East Jerusalem, Israeli forces had demolished scores of Palestinian homes, forcibly evicting families and leaving hundreds of people homeless. The targeted homes lacked building permits, which were systematically denied to Palestinians.

60. According to Human Rights Watch, “Israeli authorities demolished homes and property under discriminatory policies in the Israeli Negev and the West Bank, and harassed non-violent protesters and built unlawful settlements in occupied territory”<sup>5</sup>.

## 5.2. *With respect to Palestine*

61. The Parliamentary Assembly is in the course of evaluating the partnership for democracy status of the Palestinian National Council and I do not wish to interfere with the report being prepared by my colleague Mr Tiny Kox (Netherlands, UEL). This being clear, I shall however make some considerations on democracy, human rights and the rule of law in Palestine.

62. From the start, a distinction must be made between the situations in the West Bank, where corruption is fought by the authorities and the status of women is protected, and in the Gaza strip, where human rights are not respected by the Hamas.

63. The inclusion of suicide bombers among Palestinian martyrs, and therefore their presentation as role models, undermines a culture for peace and should be avoided. We met with a lady who, despite her sorrow, seemed proud that all five of her sons had either been killed by Israel or were in prison, serving several life sentences for terrorism.

64. According to Human Rights Watch, “In the West Bank, the Fatah-led Palestinian Authority carried out arbitrary detentions and allegedly tortured detainees. In Gaza, Hamas committed similar violations, as well as executions after unfair trials. Armed groups in Gaza launched indiscriminate rockets into Israel, killing civilians, and summarily executed Palestinians accused of spying for Israel”<sup>6</sup>. In November 2012, gunmen killed seven Palestinian prisoners accused of collaboration with Israel. A video circulated showing one of the bodies being dragged by a motorcycle. The Gaza government has apparently not even begun a promised investigation into these events.

65. There have been complaints of bloggers and journalists being arrested and sentenced in the West Bank for criticizing the Palestinian Authority or its President, Mr Abbas<sup>7</sup>.

66. The occupation was seen by many Palestinians as the reason for all the evil that happens to them. It must be said, however, that the end of the occupation would not transform all the evil into good. It would be the starting point of a long road for the Palestinians, as is the case today for so many other Arab countries.

## 6. **Conclusions and recommendations**

67. There has been no visible progress in peace negotiations between Israel and Palestine in the last few years. The situation could rather be seen as worse than it was when the Assembly last debated a report on the situation in the Middle East, on January 2010.

<sup>4</sup> <http://amnesty.org/en/region/israel-and-occupied-palestinian-territories/report-2013>.

<sup>5</sup> <http://www.hrw.org/middle-eastn-africa/israel-palestine>.

<sup>6</sup> <http://www.hrw.org/middle-eastn-africa/israel-palestine>.

<sup>7</sup> <http://www.jpost.com/MiddleEast/Article.aspx?id=264567>,

[http://www.nytimes.com/2013/02/12/opinion/palestines-democratic-deficit.html?hp&\\_r=1&\\_r=1&\\_r=1](http://www.nytimes.com/2013/02/12/opinion/palestines-democratic-deficit.html?hp&_r=1&_r=1&_r=1).

68. Many of the Sub-Committee members were not optimistic at the end of our visits. The halting of the negotiations and deterioration of the situation on the ground have driven some groups, Israeli and Palestinian alike, to regard the “two peoples, two states” solution as impossible, and to call for the abandonment of the move towards application of the principle of separation. It is my belief, on the other hand, that the “two peoples, two states” solution remains the only possible way of reaching a peace agreement and bringing the conflict to an end.

69. I nevertheless believe that the arguments of those who criticise this path should be listened to and taken into consideration. These are a sign of a deep-seated lack of confidence that deprives the prospect of peace of credibility and impetus. Certainly that position is influenced by the practical problems that the spread of settlements and building of the wall have caused to the conception of the territorial continuity which is one of the conditions for the existence of a state. On the other hand, however, criticism of the “partition” principle also reflects an awareness that Jews and Palestinians will continue to live together on the tiny territory of historic Palestine.

70. The lives, rights and cultures of the Palestinians and Jews within that territory are closely intertwined and practically inseparable. Paradoxically, the development of settlements has further strengthened this reality, transforming the geographical situation. It will be difficult or impossible in future to make an absolute distinction between those Palestinians living as citizens of the new Palestinian state and those who have opted to remain Israeli citizens and as such to claim their own individual and collective rights. A similar situation seems likely in future for that Jewish minority which, in the same way will continue to live in a Palestinian state. At that point there will be no alternative to tackling at the same time as the problems of status those of standards, and therefore of the guarantee for everyone, Arabs and Jews, Israeli and Palestinian citizens, of certain fundamental goods: respect for human rights, democracy and the rule of law.

71. It would thus be appropriate to refer not only to “two peoples, two states”, but also to “two democratic and pluralist states”.

72. This is the field in which the Council of Europe and its Parliamentary Assembly can make their own specific contribution, promoting dialogue and debate, firstly between representatives of the respective parliaments, and making available their own experience and skills. It is a contribution that can be made before a peace agreement is achieved, in order to rebuild that trust necessary for successful negotiations. But it is also a contribution that can continue subsequently, in the knowledge that the peace agreement for which we all wish to strive will just be the beginning of a long process of reconciliation and elimination of all the hatred propagated by decades of conflicts and contrasts.

73. While the Israelis declare that they are ready for the start of negotiations without pre-conditions, the Palestinians refuse this approach as a waste of time and ask for a freeze in construction in the settlements in the West Bank as a proof of Israel’s good intentions. Signals from Israel on this issue are utterly confusing: On 7 May 2013, Mr Netanyahu instructed the Housing Minister not to press ahead with tenders for 3 000 new homes in the West bank; two days later, permission was granted to build nearly 300 new houses in a settlement close to Ramallah, and on 16 May 2013, the government took steps to authorise four new Jewish settlements in the West Bank.

74. I believe that there is still a little room for optimism and that Europe should play a more important role in the region than in the past.

75. The Parliamentary Assembly of the Council of Europe, for its part, should continue to promote dialogue and confidence-building between representatives of the Knesset and the Palestinian National Council, in particular in the framework of the Sub-Committee on the Middle East of its Committee on Political Affairs and Human Rights; make available to both representative bodies its own experience in the field of human rights, the rule of law and democracy; and pursue efforts to establish relations with other parliaments in the region, notably in Egypt and Jordan, with the prospect of considering granting them partner for democracy status.