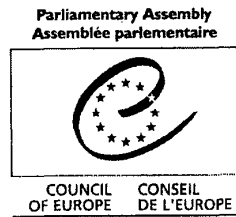


**Parliamentary Assembly
Assemblée parlementaire**



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Situation in the Middle East

Report
Political Affairs Committee
Rapporteur: Mr Mikhail Margelov, Russian Federation, European Democrat Group

Summary

The report takes note of the results of the recent Palestinian Legislative Council elections and reaffirms that the political dialogue aimed at the peaceful settlement of the Palestinian-Israeli conflict should be continued. The international community has an important role to play in this respect.

At the same time, the Assembly stresses the incompatibility of the political process and involvement in armed or terrorist activities. It strongly urges the leaders of Hamas to clearly and without reservation renounce violence, recognise the state of Israel and express support for the Middle East peace process as outlined in the Oslo accords.

The Rapporteur proposes concrete ways in which the Parliamentary Assembly of the Council of Europe could contribute to the positive climate leading to the resumption of the dialogue between the conflicting parties.

A. Draft Resolution

1. The Parliamentary Assembly welcomes the fact that the elections to the Palestinian Legislative Council on 25 January 2006, despite some shortcomings, were on the whole conducted in a well organised and democratic fashion and can be considered as fair and free.
2. The elections showed the commitment of the Palestinian people to the democratic process and constituted an important step forward in the creation of democratic institutions in the Palestinian territories and the consolidation of democracy.
3. The Assembly takes note of the choice of the Palestinian people.
4. At the same time, the Assembly underlines that the participation of the Palestinian parties in the political process is incompatible with involvement in armed or terrorist activities. Use of violence and terrorism cannot be accepted as a measure to achieve political goals.
5. In this regard, it is a matter of priority that Hamas, the winner of the parliamentary elections, renounces violence, disarms and recognises Israel's right to exist. Similarly, a newly appointed Palestinian Government has to take a clear stand on the peace negotiations and respect previous agreements.
6. The result of the parliamentary elections held in Israel on 28 March 2006 creates a new chance to resume a political dialogue and this opportunity must not be wasted. Kadima, the party which won the elections, and its partners in a future government have a great responsibility to seek a solution based on a bilateral agreement resulting from peaceful negotiations. Any unilateral action will not guarantee a sustainable settlement of the conflict and should not be undertaken.
7. The Assembly reaffirms its conviction that the Roadmap continues to be a valid reference for the peace negotiations and a two-state solution. In the framework of this respect for the Roadmap, the Assembly calls on the Palestinian authorities to dismantle the terrorist groups and their infrastructures.
8. It is essential that the dialogue and negotiations with a view to a peaceful settlement of the conflict be resumed.
9. The international community, and in particular the Quartet (the European Union, the United Nations, the Russian Federation and the United States) should actively contribute to the creation of conditions which would enable the resumption of contacts between both parties to the conflict, while remaining firm on their requirements from the new Palestinian Authority Government to commit to the principles of non-violence, recognition of Israel and acceptance of previous agreements and obligations.
10. The Assembly strongly urges the leaders of Hamas to:
 - 10.1. clearly and without reservation or delay renounce violence, recognise the state of Israel within secure internationally recognised borders, and express support for the Middle East peace process as outlined in the Oslo accords;
 - 10.2. disarm and renounce engagement in armed groups' activities;
 - 10.3. condemn terrorist actions;
 - 10.4. support and enhance the democratic process in the Palestinian Authority.
11. The Assembly calls on the Government of Israel to:
 - 11.1. express commitment to the resumption of negotiations and political dialogue on the basis of the Roadmap;
 - 11.2. halt military operations and extrajudicial executions of militants of Palestinian extremist organisations without delay;
 - 11.3. refrain from unilateral action;

- 11.4. put an immediate end to the expansion and construction of illegal settlements;
- 11.5. review its position concerning the construction of the security wall taking into account the decision of the International Court of Justice;
- 11.6. recognise the rights of the Palestinian people to live freely and safely in their own independent state with international recognised borders.
12. Subject to paragraphs 9 and 10, the Assembly calls on the Israeli and Palestinian sides to :
 - 12.1. resume contacts and engage in a meaningful peace process and negotiations;
 - 12.2. co-operate with international mediators.
13. The Assembly calls on the Quartet to actively contribute to the creation of a positive climate enabling the resumption of peace negotiations.
14. The Assembly resolves to continue facilitating contacts between members of the Palestinian Legislative Council and the Knesset at parliamentary level. In this regard, it reaffirms its support to the establishment of a Tripartite Forum within the Parliamentary Assembly with a view to discussing questions of common interest.
15. Furthermore, the Assembly decides to associate more closely members of the Palestinian Legislative Council in the work of the Parliamentary Assembly and its committees beyond the framework of Assembly Resolution 1245 (2001) and invite them systematically to plenary sessions of the Assembly.
16. Subject to respect of the above-mentioned principles, the Assembly also instructs its Bureau to consider the possible establishment of a Co-operation Agreement between the Palestinian Legislative Council and the Assembly.

B. Explanatory memorandum

I. Developments following the elections to the Palestinian Legislative Council

1. The result of the parliamentary elections to the Palestinian Legislative Council held on 25 January 2006, has confronted the international community with an entirely new situation.¹ The overwhelming victory of Hamas, which obtained the ability to form a majority government on its own, took by surprise and embarrassed the political leaders who had relied on the pre-electoral polls suggesting that it would receive between 30 and 40% of the vote cast.
2. However taken aback, all observers including the Parliamentary Assembly delegation have been unanimous in their assessment that the elections were fair and free; they ran smoothly and the Palestinian people have expressed their preferences in a democratic and peaceful way.² The impressive turnout of 77% of the total number of registered voters removes any possible doubts concerning the legitimacy of the voters' choice.
3. Hamas is the largest Palestinian militant Islamic organisation founded in 1987 at the beginning of the first intifada. It is ideologically opposed to the existence of Israel as it regards its territory as an inalienable religious bequest which can never be surrendered to non-Muslims. In consequence, it does not recognise Israel as a sovereign state. Its charter adopted in 1988 calls for Israel's destruction and the creation of an Islamic Republic in its place. Hamas asserts that this struggle (*jihad*) is the religious duty of every Muslim.
4. Hamas is a grass-root organisation. The number of its active members is unknown. It has got a political and a military wing. Its action is divided into two main areas of operation: social programmes like building schools, hospitals and religious institutions on the one hand, and militant operations carried out by Hamas' underground Izzedine al-Qassam Brigades on the other.
5. Hamas has conducted many attacks on Israel including large-scale suicide bombings against Israeli civilian targets. The most deadly was the bombing of a Netanya Hotel in March 2002, in which 30 people were killed and over 140 were wounded. Overall, from November 2000 (beginning of the second Intifada) to April 2004, as many as 377 Israeli citizens and soldiers were killed and 2 076 wounded in 425 attacks claimed by Hamas.³
6. Hamas has used female suicide bombers. It has also attacked Palestinians accused of collaboration and Fatah rivals.
7. The organisation is on the list of terrorist groups established by many countries including the United States and the European Union.
8. At the same time, since its formation, Hamas has conducted numerous social actions. Its popularity certainly stems in part from its welfare and social services to Palestinians, including school and hospital construction. The organisation devotes much of its estimated 70 million dollar annual budget to an extensive social services network, running many relief and education programmes, and funding schools, orphanages, mosques, healthcare clinics, soup kitchen and sports leagues.
9. Hamas is also well regarded by Palestinians for its efficiency and perceived lack of corruption particularly in comparison to Fatah.
10. It also has a branch in exile, formerly in Jordan, at present in Qatar.
11. Hamas has denounced the 1993 Oslo Accords as a "betrayal of God's will". However, in January 2004, Hamas offered a 10-year truce (*hudna*), in return for a complete withdrawal by Israel to the borders from 1967, and an establishment of a Palestinian state. Hamas leaders announced that they could accept a Palestinian state in the West Bank and Gaza Strip. The truce has been observed but with several exceptions including the attack on the bus station in April 2005 where seven people were wounded, and several attacks on Israeli motorists killing in total six people.

¹ According to the final results, Hamas won 44% of votes which assured 56% of seats (74 out of 132), and Fatah won 42 % of the vote and 34% of seats (45).

² See Doc AS/BUR/AH PAL (2006) 2 (PACE report on the observation of elections).

³ The Israeli Ministry of Foreign Affairs maintains a comprehensive list of terrorist attacks on its website.

12. Hamas boycotted the 1996 parliamentary and 2005 presidential elections but it did participate in the 2005 municipal elections in Gaza and the West Bank winning control over one third of Palestinian municipal districts.

13. The call for destruction of Israel has been dropped from its electoral manifesto. Similarly, during the election campaign, the organisation toned down the criticism of Israel and only stated that they were prepared to use "armed resistance to end the occupation". However, several Hamas candidates insisted that the Hamas' charter remained in force. Since the electoral victory no public statement distancing the organisation from the use of violence and envisaging recognition of Israel has been made by any leader of Hamas.

14. In an interview for a Russian newspaper *Nezavisimaya Gazeta* published on 13 February 2006, Hamas leader Khaled Mashal declared that Hamas would stop the armed struggle against Israel if it recognised the 1967 borders and withdrew its forces from occupied territories including the West Bank and Eastern part of Jerusalem. However, Mashal continued to refuse to acknowledge the Roadmap, adopted by the Quartet in 2003 claiming that "nobody respects it".

15. Following the outcome of the parliamentary elections, the Palestinian Prime Minister Ahmed Qurei and his cabinet resigned, leaving Hamas to form a new government. On 19 February 2006, Ismail Haniya was designated by President Mahmud Abbas as Prime Minister of the Parliamentary Assembly with a task of forming a government. The President has called on Hamas to disarm and renounce violence, and to recognise Israel.

16. Hamas leaders have begun talks with possible allies on the shape and programme of a new government. They said they preferred to rule in a coalition. Initially several other groups (the Popular Front for the Liberation of Palestine) said they will not take part. Fatah officials announced that the party will remain in opposition. The new Government was presented to the Palestinian Legislative Council for approval on 28 March 2006, and received a vote of confidence.

17. The first reactions of the international community after the election were cautious and evasive. Whilst recognising the legitimacy of the elections and considering them as a positive step forward on the way to the democratisation, the Quartet remained cautious concerning relations with a future government.

18. The European Union, the biggest donor to the Parliamentary Assembly, has threatened to stop funding unless Hamas recognises Israel and renounces violence. Nearly all public institutions including schools, health care and security bodies rely on foreign aid. Cutting this aid risks pushing Palestinian society into chaos. The European Union announced that future aid to the Palestinians is tied to three principles outlined by the international community: Hamas must renounce violence, recognise Israel's right to exist and express clear support for the Middle East peace process as outlined in the Oslo accords.

19. The United States administration has adopted a similar position.

20. President Vladimir Putin said that Russia would not support any efforts to cut off financial assistance to the Palestinians stating that Hamas gained power by democratic means. He invited some Hamas leaders to Moscow on 3 March 2006.

21. Israel immediately announced a range of punitive measures against any Hamas dominated government including the suspension of collecting customs revenues on the Palestinians' behalf. Israeli acting Prime Minister Ehud Olmert has said that Israel would not hold contacts with any administration in which Hamas plays a role. On 19 February 2006, he decided to stop transfer of 50 million USD tax-receipts to the Parliamentary Assembly which accounts for a third of the Parliamentary Assembly's budget and ensure the wages of 140 000 Palestinian civil servants including 60 000 security and police officers. The head of Israel's Shin Bet security service, Yuval Diskin has announced that "A Hamas state, with military and terror capabilities, is a strategic threat to Israel".

22. On 27 February 2006, the European Union decided to transfer emergency financial aid of 120 million Euro to keep the Palestinian public sector functioning. Most of the money will not go directly to the government but to aid programmes on the ground and to meet energy bills.

23. Both the European Union and the United States are debating their future position vis-à-vis the government formed by Hamas.

24. Addressing the Palestinian Parliament on 27 March 2006, Ismail Haniya, then Hamas nominee for Prime Minister, stated that Hamas was ready to talk to international mediators and called on Western countries to open a dialogue. At the same time, however, he did not make any concession regarding three principles considered by western countries as a necessary pre-condition to starting a dialogue. For that reason he was severely criticised by the opposition in the Palestinian Legislative Council.

25. The result of the election is regarded by many observers as a major setback for governments attempting to mediate the ongoing Israeli-Palestinian conflict. Some observers however, say Hamas is following the same pragmatic path towards a relationship with Israel that the PLO and Fatah followed in the 1980s and 1990s. The mere fact of their taking seats in the Palestinian Legislative Council – a body formed in the framework of the Oslo process – can be considered as a de facto recognition of Israel.

26. An administration led by Hamas which refuses to recognise Israel and disarm, would remove any prospect of resuming peace talks.

27. On 28 March 2006, the parliamentary elections were held in Israel.⁴ The victory of Kadima, which won the election on a promise to withdraw unilaterally from some parts of West Bank should be considered as a warning and incite more efficient efforts to resume a dialogue and negotiations.

28. No unilateral action would ensure lasting and sustainable peace in the region. It has to be clear that peaceful solution can only be achieved following a negotiated compromise. Such negotiations, conducted under the aegis of the Quartet provide the only have to be resumed and all parties concerned bear responsibility for it.

II. The position of the Parliamentary Assembly – prospects for the establishment of the Tripartite Forum

29. The Parliamentary Assembly of the Council of Europe has been closely following the situation in the region as witnessed by numerous resolutions and recommendations. In particular, the Political Affairs Committee has been attempting to contribute to the dialogue at parliamentary level between both parties of the conflict.

30. In Resolution 1245 (2001), the Assembly resolved to invite the representatives of the Palestinian Legislative Council whenever the question of the Middle East is discussed, be it at the plenary of the committee level. This principle has been strictly observed and the Political Affairs Committee has established close contacts with many members of the former Palestinian Legislative Council.

31. Again, in Resolution 1420 (2005) the Assembly resolved to facilitate contacts between the parliamentarians from the Knesset and the Palestinian Legislative Council, and in particular, it instructed its relevant committees as well as its Secretary General to step up co-operation with their counterparts in both parliaments by organising joint meetings, conferences and training programmes.

32. Furthermore, the Assembly invited the Political Affairs Committee to consider the possibility of using its Sub-Committee on the Middle East as a tripartite forum allowing parliamentarians from the Knesset, the Palestinian Legislative Council and the Parliamentary Assembly to sit together on an equal footing with a right to speak and make proposals for the Sub-Committee's agenda and action.

33. The Committee has agreed to postpone the establishment of the Forum pending the outcome of the parliamentary elections to the Palestinian Legislative Council.

⁴ According to the final results Kadima obtained 29 seats out of 120 seats, Labour : 19 seats, Shas: 12 seats, Likud: 12 seats, Israel Beitenu: 11 seats, Arab parties: 10 seats, National Union: 9 seats, Pensioners: 7 seats, Torah Judaism: 6 seats, Meretz: 5 seats.

34. The discussions which took place in the Committee on 14 March 2006 and the following day in the Sub-Committee on the Middle East with the participation of representatives of the Palestinian Legislative Council clearly showed that there is a will to conduct a dialogue. The members agreed that the choice of the Palestinian people cannot be ignored; on the contrary it has to be respected.

35. It is important to understand the reasons which were behind that choice. Several factors played an important role: deterioration of the situation including difficulties of every day life like restrictions on movement with all its dramatic consequences, Fatah's failure to deliver concrete results following the negotiations, Hamas' involvement in social actions and services. The international community which failed to efficiently support President Abbas' efforts to advance negotiations also has its share in the responsibility.

36. However, it should be clear that the participation in the political process is incompatible with the involvement in armed or terrorist activities. Use of violence cannot be accepted as a measure to achieve political goals. Hamas must clearly define its position.

37. To this end, it must clearly and without reservation renounce violence, recognise the state of Israel and express support for the Middle East process as outlined in the Oslo accords. In particular, it must disarm, renounce engagements in armed groups' activities and condemn terrorist attacks.

38. The international community could and should play an important role in the establishment of the conditions and climate which would lead to the resumption of a dialogue between both parties of the conflict. The main responsibility lies with the Quartet (the European Union, the United Nations, the United States and Russia). The statement by Mr Hanyia in the Palestinian Legislative Council about his readiness to talk to the international negotiators may raise cautious optimism.

39. The Parliamentary Assembly on its part should continue its efforts to develop a dialogue at the parliamentary level. To this end, different measures could be undertaken.

40. Firstly, the Sub-Committee on the Middle East of the Political Affairs Committee should continue its work aimed at the establishment of the Tripartite Forum.

41. Secondly, the members of the Palestinian Legislative Council should be associated more closely in the work of the Parliamentary Assembly and its committees beyond the framework of Assembly Resolution 1245 (2001), and they should be invited systematically to plenary sessions of the Assembly.

42. Thirdly, the Bureau of the Assembly should consider the possible establishment of a Co-operation Agreement between the Palestinian Legislative Council and the Assembly. Such an agreement could provide a framework for a more enhanced co-operation.

43. I believe that this enhanced cooperation should be used to pass on to Palestinians the Assembly's dedication to the values it stands for including the respect for human rights, rejection of violence and of all forms of terrorism, and thus could contribute to the creation of favourable conditions for the peace settlement in the Middle East.

Reporting Committee: Political Affairs Committee.

Reference to Committee: Resolution 1452 (2005)

Draft Recommendation unanimously adopted by the Committee on 10.04.06

Members of the Committee: Mr Abdülkadir Ateş (Chairman), Mr Konstantion **Kosachev** (Vice-Chairman), Mr Zsolt Németh (Vice-Chairman), Mr Giorgi Bokeria (Vice-Chairman), Ms Birgir **Ármansson**, Mr Giuseppe **Arzilli**, Mr Claudio Azzolini, Mr Miroslav **Beneš**, Mr Radu-Mircea Berceanu, Mr Gerardo Bianco, Mr Alexandër Biberaj, Mr Luc **Van den Brande**, Mrs Beáta **Brestenká**, Mrs Anna Čurdová, Mr Noel Davern, Mr Dumitru Diacov, Mr Michel Dreyfus-Schmidt, Mr Adri Duivesteijn, Mrs Josette **Durrieu**, Mr Mikko **Elo**, Mr Joan Albert Farré Santuré, Mr Per-Kristian Foss, Mr Jean-Charles Gardetto, Mr Charles **Goerens**, Mr Daniel **Goulet**, Mr Andreas Gross, Mr Jean-Pol Henry, Mr Joachim **Hörster**, Mr Ali Huseynov, Mr Renzo Innocenti, Mr Ivan **Ivanovski**, Mr Tadeusz **Iwiński**, Mr Elmir **Jahić**, Mr Ljubiša **Jovašević**, Mr Ivan **Kalezić**, Mr Oleksandr Karpov, Mr Oskars **Kastēns**, Mr Yuriy Kostenko, Mrs Darja **Lavtižar-Bebler**, Mr Göran **Lindblad**, Mr Younal Loutfi, Mr Mikhail **Margelov**, Mr Tomasz **Markowski**, Mr Dick Marty, Mr Frano Matušić, Mr Murat **Mercan**, Mr Jean-Claude Mignon (alternate: M. Denis **Badré**), Mr Marko **Mihkelson**, Ms Nadezhda Mikhailova (alternate: Mr Ivan **Ivanov**), Mr João Bosco **Mota Amaral**, Ms Natalia Narochnitskaya (alternate: Mr Ilyas **Umakhanov**), Ms Carina **Ohlsson**, Mr Boris Oliynyk, Mr Theodoros **Pangalos**, Ms Elsa **Papadimitriou**, Mr Christos Pourgourides (alternate: M. Doros **Christodoulides**), Mr Gordon Prentice, Mr Gabino **Puche**, Mr Lluís Maria **de Puig**, Mr Jeffrey Pullicino Orlando, Lord **Russell-Johnston**, Mr Peter **Schieder**, Mr Ingo **Schmitt**, Ms Juana Serna (alternate: Ms Maria **Aburto**), Mr Adrian **Severin**, Ms Hanne Severinsen, Mr Samad **Seyidov**, Mr Leonid **Slutsky**, Mr Michael Spindelegger, Mr Rainer **Steenblock**, Mr Zoltán Szabó, Baroness Taylor of Bolton (alternate: Lord **Tomlinson**), Mr Mehmet Tekelioğlu, Mr Tigran **Torosyan**, Mr José **Vera Jardim**, Ms Biruté **Vesaitė**, Mr Varujan Vosganian, Mr David **Wilshire**, Mr Bart van Winsen, Mr Wolfgang **Wodarg**, Ms Renate Wohlwend (alternate: Ms Doris **Frommelt**), Mr Marco Zacchera, Mr Krzysztof **Zaremba**.

Ex-officio: MM. Mátyás Eörsi, Mats Einarsson,

N.B. : The names of the members who took part in the meeting are printed in **bold**

Head of the Secretariat : Mr Perin

Secretaries to the Committee: Mrs Nachilo, Mr Chevtchenko, Mrs Sirtori-Milner