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ICJ PROCEEDINGS INSTITUTED BY QATAR AGAINST THE UNITED ARAB EMIRATES ON 11 JUNE 2018

1. On 11 June 2018, Qatar instituted proceedings at the International Court of Justice against the United Arab Emirates, and requested provisional measures.
2. The following documents have been uploaded to the ICJ's website:
 - a. Press release;
 - b. Application instituting proceedings (the "Application");
 - c. Request for provisional measures (the "Request").

APPLICATION FOR INSTITUTION OF PROCEEDINGS

Basis of claims

3. In instituting proceedings, Qatar relies on the Convention on the Elimination of All Forms of Racial Discrimination (both Qatar and the UAE are parties to the CERD, acceding to it on 22 July 1976 and 20 June 1974, respectively).
4. Qatar's position is that the UAE has targeted Qataris and their families for discriminatory treatment, by enacting and implementing a series of discriminatory measures directed at Qataris based expressly on their national origin (paras 2-3 of the Application). Qatar defines the "Discriminatory Measures" as follows:

"...the UAE:

- *expelled all Qataris within its borders, without exception, giving them just two weeks to leave;*
- *prohibited Qataris from entering into or passing through the UAE, and ordered UAE nationals to leave Qatar or face severe civil penalties, including deprivation of their nationality and the imposition of criminal sanctions;*
- *closed UAE airspace and seaports to Qatar and Qataris and prohibited all inter-state transport, which together with coordinated measures enacted simultaneously by other nearby states, rendered Qatar inaccessible by air, by land, and by sea;*
- *interfered with the rights of Qataris who own property in the UAE;*
- *prohibited by law any speech deemed to be in "support" of Qatar or opposed to the actions taken against Qatar, on threat of severe financial penalty or up to fifteen years imprisonment; and*
- *shut down the local offices of Al Jazeera Media Network ("Al Jazeera") and blocked the transmission of Al Jazeera and other Qatari stations and websites.*

4. Further, the UAE has not only failed to condemn racial hatred against Qataris, but has directly incited hate speech, as well as a full-scale media campaign against Qatar and Qataris. UAE government officials themselves actually have participated in social media attacks on Qatari "sympathizers" and have called for attacks against Qatar.

5. These and other actions described herein targeting Qatar and Qataris (collectively, "Discriminatory Measures") are unlawful." (footnotes omitted)

5. The Application states that the impact of the UAE's measures was:
 - a. Interference with marriage and choice of spouse (discussed further at section B1 of the Application);
 - b. Interference with free expression (Section B2);
 - c. Interference with medical treatment (Section B3);
 - d. Interference with education (Section B4);
 - e. Interference with right to work (Section B5);
 - f. Impacts on property (Section B6);
 - g. No legal recourse (Section B7).

6. Qatar states that UAE has contravened its specific obligations under CERD Articles 2, 4, 5, 6, and 7, as well as the customary international law principle of nondiscrimination (para. 58), and cites the following actions:
 - a. Prohibition on Collective Expulsion and Ban on Entry (para. 59);
 - b. The UAE's Incitement of and Failure to Condemn Racial Hatred and Prejudice (para. 60 et seq);
 - c. Discriminatory Interference with Protected Rights (para. 63);
 - d. Denial of Effective Protection and Remedies against Acts of Racial Discrimination (para. 64).

Relief sought

7. In its Application, Qatar seeks the following relief:
 - a. A declaration that the UAE, through its State organs, State agents, and other persons and entities exercising governmental authority, and through other agents acting on its instructions or under its direction and control, has violated its obligations under Articles 2, 4, 5, 6, and 7 of the CERD (para. 65);
 - b. An order that the UAE to take all steps necessary to comply with its obligations under CERD (para. 66) and, inter alia:
 - i. Immediately cease and revoke the Discriminatory Measures, including but not limited to the directives against "sympathizing" with Qataris, and any other national laws that discriminate de jure or de facto against Qataris on the basis of their national origin;
 - ii. Immediately cease all other measures that incite discrimination (including media campaigns and supporting others to propagate discriminatory messages) and criminalize such measures;
 - iii. Comply with its obligations under the CERD to condemn publicly racial discrimination against Qataris, pursue a policy of eliminating racial discrimination, and adopt measures to combat such prejudice;
 - iv. Refrain from taking any further measures that would discriminate against Qataris within its jurisdiction or control;
 - v. Restore rights of Qataris to, inter alia, marriage and choice of spouse, freedom of opinion and expression, public health and medical care, education and training, property, work, participation in cultural activities, and equal treatment before tribunals, and put in place measures to ensure those rights are respected;
 - vi. Provide assurances and guarantees of non-repetition of the UAE's illegal conduct; and
 - vii. Make full reparation, including compensation, for the harm suffered as a result of the UAE's actions in violation of the CERD.

Conduct of the proceedings

8. In its Application, Qatar declares its intention to exercise its right to choose a judge *ad hoc* (para. 67).

REQUEST FOR PROVISIONAL MEASURES

9. Along with the Application, Qatar has also filed a request for provisional measures. Qatar the requirements of urgency and irreparable harm required for the grant of provisional measures at paras. 14-18 of the Request, and asks that the Court consider the request at the earliest possible opportunity, including the scheduling of a hearing (para. 21).

10. The provisional measures sought are as follows (para. 19):

“a) The UAE shall cease and desist from any and all conduct that could result, directly or indirectly, in any form of racial discrimination against Qatari individuals and entities by any organs, agents, persons, and entities exercising UAE governmental authority in its territory, or under its direction or control. In particular, the UAE shall immediately cease and desist from violations of the human rights of Qataris under the CERD, including by:

i. suspending operation of the collective expulsion of all Qataris from, and ban on entry into, the UAE on the basis of national origin;

ii. taking all necessary steps to ensure that Qataris (or persons with links to Qatar) are not subjected to racial hatred or discrimination, including by condemning hate speech targeting Qataris, ceasing publication of anti-Qatar statements and caricatures, and refraining from any other incitement to racial discrimination against Qataris;

iii. suspending the application of its Federal Decree-Law no. (5) of 2012, On Combatting Cybercrimes, to any person who “shows sympathy...towards Qatar” and any other domestic laws that (de jure or de facto) discriminate against Qataris;

iv. taking the measures necessary to protect freedom of expression of Qataris in the UAE, including by suspending the UAE’s closure and blocking of transmissions by Qatari media outlets;

v. ceasing and desisting from measures that, directly or indirectly, result in the separation of families that include a Qatari, and taking all necessary steps to ensure that families separated by the Discriminatory Measures are reunited (in the UAE, if that is the family’s preference);

vi. ceasing and desisting from measures that, directly or indirectly, result in Qataris being unable to seek medical care in the UAE on the grounds of their national origin and taking all necessary steps to ensure that such care is provided;

vii. ceasing and desisting from measures that, directly or indirectly, prevent Qatari students from receiving education or training from UAE institutions, and taking all necessary steps to ensure that students have access to their educational records;

viii. ceasing and desisting from measures that, directly or indirectly, prevent Qataris from accessing, enjoying, utilizing, or managing their property in the UAE, and taking all necessary steps to ensure that Qataris may authorize valid powers of attorney in the UAE, renew necessary business and worker licenses, and renew their leases; and

ix. taking all necessary steps to ensure that Qataris are granted equal treatment before tribunals and other judicial organs in the UAE, including a mechanism to challenge any discriminatory measures.

b) The UAE shall abstain from any measure that might aggravate, extend, or make more difficult resolution of this dispute; and

c) The UAE shall abstain from any other measure that might prejudice the rights of Qatar in the dispute before the Court.”

CONCLUDING OBSERVATION

The ICJ will now have to consider and rule on the provisional measures application as soon as possible. A final hearing on the substantive issues may take several years. The ICJ issues decisions which can be given binding force by UN security council resolutions.