



INTERNATIONAL COURT OF JUSTICE

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Press Release

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Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates v. Qatar)

The Court rejects the appeal brought by Bahrain, Egypt and the United Arab Emirates from the Decision of the ICAO Council

THE HAGUE, 14 July 2020. The International Court of Justice (ICJ), the principal judicial organ of the United Nations, has today delivered its Judgment on the *Appeal Relating to the Jurisdiction of the ICAO Council under Article II, Section 2, of the 1944 International Air Services Transit Agreement (Bahrain, Egypt and United Arab Emirates v. Qatar)*.

In its Judgment, which is final, without appeal and binding on the Parties, the Court

- (1) *rejects*, unanimously, the appeal brought by the Kingdom of Bahrain, the Arab Republic of Egypt and the United Arab Emirates on 4 July 2018 from the Decision of the Council of the International Civil Aviation Organization, dated 29 June 2018;
- (2) *holds*, by fifteen votes to one, that the Council of the International Civil Aviation Organization has jurisdiction to entertain the application submitted to it by the Government of the State of Qatar on 30 October 2017 and that the said application is admissible.

History of the proceedings

By a joint Application filed in the Registry of the Court on 4 July 2018, the Governments of Bahrain, Egypt and the United Arab Emirates instituted an appeal against a Decision rendered by the ICAO Council on 29 June 2018 in proceedings brought before the Council by Qatar on 30 October 2017, pursuant to Article II, Section 2, of the International Air Services Transit Agreement (the “IASTA”). Those proceedings were initiated following the severance by the Governments of Bahrain, Egypt and the United Arab Emirates of diplomatic relations with Qatar and the adoption, on 5 June 2017, of restrictive measures relating to terrestrial, maritime and aerial lines of communication with that State, which included certain aviation restrictions. According to Bahrain, Egypt and the United Arab Emirates, these restrictive measures were taken in response to the alleged breach by Qatar of its obligations under certain international agreements to which the States are parties, including, in particular, the Riyadh Agreement of 23 and 24 November 2013, and of other obligations under international law.

Bahrain, Egypt and the United Arab Emirates raised preliminary objections before the ICAO Council, contending that the Council lacked jurisdiction “to resolve the claims raised” by Qatar in its application and that these claims were inadmissible. By its Decision of 29 June 2018, the Council rejected these objections. Bahrain, Egypt and the United Arab Emirates thus decided to appeal the Decision before the Court, as provided for by Article 84 of the Chicago Convention, and filed a joint Application to that effect.

In their joint Application to the Court, the Appellants raise three grounds of appeal against the Decision rendered by the ICAO Council on 29 June 2018. First, they submit that the Council’s Decision “should be set aside on the grounds that the procedure adopted by [the latter] was manifestly flawed and in violation of fundamental principles of due process and the right to be heard”. In their second ground of appeal, they assert that the Council “erred in fact and in law in rejecting the first preliminary objection . . . in respect of the competence of the ICAO Council”. According to the Appellants, to pronounce on the dispute would require the Council to rule on questions that fall outside its jurisdiction, specifically on the lawfulness of the countermeasures, including “certain airspace restrictions”, adopted by the Appellants. In the alternative, and for the same reasons, they argue that the claims of Qatar are inadmissible. Under their third ground of appeal, they contend that the Council erred when it rejected their second preliminary objection. That objection was based on the assertion that Qatar had failed to satisfy the precondition of negotiation contained in Article II, Section 2, of the IASTA, and thus that the Council lacked jurisdiction. As part of that objection, they also argued that Qatar’s claims were inadmissible because Qatar had not complied with the procedural requirement set out in Article 2, subparagraph (g), of the ICAO Rules for the Settlement of Differences.

Composition of the Court

The Court was composed as follows: *President* Yusuf; *Vice-President* Xue; *Judges* Tomka, Abraham, Cançado Trindade, Donoghue, Gaja, Sebutinde, Bhandari, Robinson, Crawford, Gevorgian, Salam, Iwasawa; *Judges ad hoc* Berman, Daudet; *Registrar* Gautier.

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Judge CANÇADO TRINDADE appends a separate opinion to the Judgment of the Court; Judge GEVORGIAN appends a declaration to the Judgment of the Court; Judge *ad hoc* BERMAN appends a separate opinion to the Judgment of the Court.

A summary of the Judgment appears in the document entitled “Summary No. 2020/3”, to which summaries of the opinions and declaration are annexed. This press release, the summary and the full text of the Judgment are available on the Court’s website (www.icj-cij.org), under the heading “Cases”.

Note: The Court's press releases are prepared by its Registry for information purposes only and do not constitute official documents.

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations. It was established by the United Nations Charter in June 1945 and began its activities in April 1946. The Court is composed of 15 judges elected for a nine-year term by the General Assembly and the Security Council of the United Nations. The seat of the Court is at the Peace Palace in The Hague (Netherlands). The Court has a twofold role: first, to settle, in accordance with international law, through judgments which have binding force and are without appeal for the parties concerned, legal disputes submitted to it by States; and, second, to give advisory opinions on legal questions referred to it by duly authorized United Nations organs and agencies of the system.

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