Comments of the United Arab Emirates (the "UAE") to the Written Responses of Qatar to the questions of Judge Cançado Trindade:

1. **Does the local remedies rule have the same rationale in diplomatic protection and in international human rights protection? Does the effectiveness of local remedies have an incidence under the International Convention on the Elimination of All Forms of Racial Discrimination and other human rights treaties?**

In light of Qatar's response to Judge Cançado Trindade's first question, it is clear that both parties are in agreement as to the rationale of the requirement of exhaustion of local remedies as succinctly set out in *Interhandel*.[1] Neither the Court itself nor the international human rights bodies have concluded otherwise with respect to the specific case of human rights treaties.

However, what Qatar singles out as the specificity of the requirement of exhaustion of local remedies in the context of international human rights law ("actual redress")[2] is nothing other than another name for the requirement of the effectiveness of such remedies in conformity with generally recognized principles of international law. In addition, as recognized by Qatar, the principal international human rights treaties include an express obligation upon States parties to ensure the availability of an effective remedy for alleged violations.[3]

Qatar's distinction between the "preemptive" operation of the rule requiring exhaustion of local remedies in the context of diplomatic protection and its "protective" operation in international human rights[4] does not in any way change or affect the UAE's analysis. While the remedies that the domestic legal system of a State provides undoubtedly have a protective function, in the sense that victims of alleged human rights violations can use those remedies to voice their grievances, it remains the case that no international machinery can normally be activated for such alleged violations until those domestic remedies are exhausted.

Qatar suggests that the silence in Article 22 of the International Convention on the Elimination of All Forms of Racial Discrimination (the "Convention") as to the applicability of the requirement of exhaustion of local remedies means that the rule does not apply to interstate procedures.[5] This assertion is however undermined by the Convention's Article 11, pursuant to which the inter-State procedure before the CERD Committee is subject to the requirement of exhaustion of local remedies. Moreover, the Article 22 procedure cannot be activated unless "the procedures expressly provided for in

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[1] Response on behalf of the State of Qatar to the questions posed by Judge Cançado Trindade on Friday, 29 June 2018, 3 July 2018 ("Qatar's Response"), para. 1; Response of the United Arab Emirates to the questions of Judge Cançado Trindade, 3 July 2018, p. 1.

[2] Qatar's Response, paras. 3-4.

[3] Qatar's Response, paras. 4 and 6.

[4] Qatar's Response, paras. 5-6.

[5] Qatar's Response, para. 8.

this Convention", including notably those contained in Articles 11-13, have not resulted in the settlement of the dispute.[6] Therefore, there was no need to incorporate the requirement of exhaustion of local remedies in Article 22. In any case, the Convention says nothing to exclude that in State-to-State procedures under Article 22, the exhaustion of local remedies rule applies under general international law.

In other human rights treaties providing for an inter-State procedure similar to the one established under Articles 11-13 of the Convention, the requirement of exhaustion of local remedies has been upheld in cases where the preponderant objective of a State's claim is to seek redress for wrong suffered by its nationals.[7] In light of the fact that the preponderant element of Qatar's Application, and, in particular, of its Request for the Indication of Provisional Measures is to seek redress for alleged harm done to Qatari citizens,[8] *a fortiori*, the rule of exhaustion of local remedies is applicable.

As regards Qatar's belated reliance on the *erga omnes partes* character of the obligations under the Convention[9], the Court in *Armed Activities on the Territory of the Congo (Democratic Republic of Congo v. Uganda)*, treated part of Uganda's second counterclaim (relating to breach of the international minimum standard in respect of alleged maltreatment of Ugandan nationals not enjoying diplomatic status) as being a claim having the character of diplomatic protection. As a consequence it assessed compliance with the requirements of nationality and exhaustion of local remedies, and went on to find that there was insufficient proof of compliance with the requirement of nationality, such that this part of the second counterclaim was inadmissible.[10]

The later decisions of the Court in *Questions relating to the Obligation to Prosecute or Extradite*, and also the Provisional Measures Orders in *Georgia v. Russian Federation*

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[6] CR 2018/13, p. 21, para. 8 (6) (Pellet).

[7] Appl. N. 788/60, *Austria v Italy*, decision of 11 January 1961, Report of the Plenary Commission, Council of Europe doc. A-84-548, p. 27: "...it is manifest that the principle upon which the domestic remedies rule is founded and the considerations which led to its introduction in general international law apply not less but a fortiori to a system of international protection [-sc. the system of the European Convention on Human Rights-] which extends to a State's own nationals as well as to foreigners" (emphasis in text); Appl. N. 34382/97, *Denmark v Turkey*, decision of 8 June 1999: "[t]he rule of exhaustion of domestic remedies, [...] applies to State applications (Article 33) in the same way as it does to "individual" applications (Article 34), when the applicant State does no more than denounce a violation or violations allegedly suffered by individuals whose place is taken by the State [...]"; On the preponderance test, see International Law Commission, Draft Articles on Diplomatic Protection, *Official Records of the General Assembly*, Sixty-first Session, Supplement No. 10 (A/61/10) (2006), Article 14(3) which provides that: "Local remedies shall be exhausted where an international claim, or request for a declaratory judgement related to the claim, is brought preponderantly on the basis of an injury to a national or other person referred to in draft article 8." See also, Draft Articles on Diplomatic Protection, Commentary to Article 14, para. (11): "If a claim is preponderantly based on injury to a national this is evidence of the fact that the claim would not have been brought but for the injury to the national."

[8] QR, para. 19; QA, para. 65.

[9] Qatar's Response, para. 8.

[10] *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, pp. 275-276, paras. 328-333.

and *Ukraine v. Russian Federation* (on which Qatar relies[11]) can be distinguished and are not inconsistent with the UAE's analysis.

In particular, in *Questions relating to the Obligation to Prosecute or Extradite*, Belgium was not seeking reparation on behalf of individuals, but only declarations as to the violation by Senegal of its obligations.[12] By contrast, in the present case, Qatar is unambiguously seeking compensation on behalf of its nationals, with the result that (as was argued by the UAE in the first round[13]), this is a claim having the character of diplomatic protection and the normal requirements therefore apply.

With respect to *Georgia v. Russian Federation* and *Ukraine v. Russian Federation*, no objection was taken in either case on the basis that the claims were by way of diplomatic protection, or that the requirements of nationality and exhaustion of local remedies had not been complied with. The Court said nothing to suggest that the requirement of exhaustion of domestic remedies does not apply in cases brought before it on the basis of Article 22 of the Convention where a claim is brought on behalf of individuals.

2. Is it necessary to address the plausibility of rights in face of a continuing situation allegedly affecting the rights protected under a human rights treaty like the International Convention on the Elimination of All Forms of Racial Discrimination?

In brief, Qatar does not deny that the short answer to this question is "yes". Both Parties are agreed that it is necessary to address the plausibility of rights in the situation currently being considered by the Court.

Legal Plausibility

The difference between the two States, therefore, revolves around the conditions required in order for the agreed plausibility criterion to be satisfied. The UAE has taken the position that the doctrine of plausibility constitutes a balance between regard for those individuals, groups and States claiming a violation of rights (whether or not in the field of human rights) and the procedural requirements of the Court seeking to adjudicate between States as to their rights and obligations under international law. Evaluation of the plausibility of the rights claimed to have been violated is an indispensable preliminary step in the adjudicative process and cannot be dispensed with. It also flows from the

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[11] Qatar's Response, para. 8.

[12] *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment, I.C.J Reports 2012*, p. 428, paras. 12-14; see also Memorial of the Kingdom of Belgium, 1 July 2009, pp. 82-83. Cf International Law Commission, Articles on the Responsibility of States for Internationally Wrongful Acts, *Official Records of the General Assembly*, Fifty-sixth Session, Supplement No. 10 (A/56/10) (2001), Article 48(2)(a) and (3).

[13] CR 2018/13, p. 28, paras. 2-3 (Treves).

recognition that an order from the Court for an indication of provisional measures under Article 41 of its Statute is binding.[14] Both sides agree on this.

Qatar's conclusion is, however, that "the plausibility inquiry remains a limited one, in which the Court conducts 'some minimum review' to assess whether the applicant has sufficiently demonstrated that the rights it asserts might have been breached".[15] In reaching this conclusion, Qatar, in its rather lengthy reply to the question, examines the case law, but in so doing emphasises some elements to the detriment of others. Qatar points to the supposedly "low threshold" required to satisfy the plausibility test, which is "especially important when it comes to the protection of rights under a human rights treaty".[16] There are two points to be noted here. First, Qatar accepts that there is indeed a threshold, but secondly it introduces the notion of "low threshold", a term which does not appear in the case law.

As demonstration for the existence of a "low threshold" for plausibility, Qatar refers to the quotation by the Court from the *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* case concerning the requirement that the rights alleged "need only be grounded in a 'possible interpretation' of the legal instrument in question".[17] However, it is necessary to examine the relevant passage in full. It reads as follows:

> Whereas at this stage of the proceedings, the Court does not need to establish definitively the existence of the rights claimed by Belgium or to consider Belgium's capacity to assert such rights before the Court; and whereas the rights asserted by Belgium, being grounded in a possible interpretation of the Convention against Torture, therefore appear to be plausible.[18]

It can thus be seen that Qatar has taken one element only out of the equation. The key element is that the Court did not need to establish "definitively" the existence of the rights and within this context, the rights asserted need to be "grounded" in a possible interpretation. There are thus three elements. First, that the test does not need to reach the level of "definitively" establishing the existence of the rights, although this level constitutes at least a marker. Secondly, that the rights as claimed must be "grounded" which means a certain standard of relevance and applicability; "grounded" as an expression means founded or based with some solidity. It has a meaning that goes beyond mere reference. It must mean that a certain standard of substantial connection has been demonstrated that goes beyond simply alluding to or just mentioning the convention in

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[14] *LaGrand (Germany v. United States of America), Judgment, I.C.J. Reports 2001*, pp. 466, 506, para. 109 ("the Court has reached the conclusion that orders on provisional measures under Article 41 have binding effect"). See also *Pulp Mills (Argentina v Uruguay), Provisional Measures, Order of 13 July 2006*, Separate Opinion of Judge Abraham, *I.C.J. Reports 2006*, p. 140, para. 8.

[15] Qatar's Response, para. 23.

[16] Ibid. para. 13. See also para. 14 ("existing low threshold").

[17] Ibid. para. 13.

[18] *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal) Provisional Measures, Order of 28 May 2009, I.C.J. Reports 2009*, p. 152, para. 60.

question. Thirdly, that an interpretation of the Convention is "possible" implies that there must be a certain level of confidence that the argued interpretation is at least potentially a valid one. Qatar's selective quotation, therefore, is misleading.

In order to understand the context in which this has arisen, one needs to consider the Separate Opinion of Judge Abraham in *Pulp Mills*, which may be seen as the origin of the doctrine of plausibility of rights. Judge Abraham's point was that by indicating provisional measures, "the Court necessarily encroaches upon the respondent's sovereign rights", so that "the obligation thus imposed must rest on sufficiently solid legal ground, especially when the party in question is a sovereign State". Judge Abraham declared that:

> I find it unthinkable that the Court should require particular action by a State unless there is reason to believe that the prescribed conduct corresponds to a legal obligation (and one predating the Court's decision) of that State, or that it should order a State to refrain from a particular action, to hold it in abeyance or to cease and desist from it, unless there is reason to believe that it is, or would be, unlawful.[19]

As Qatar notes,[20] Judge Abraham stated that the Court could not make a provisional measures order "unless the Court has carried out some minimum review to determine whether the rights claimed actually exist and whether they are in danger of being violated".[21] Minimum review "or giving some thought to the substance", as Judge Abraham puts it,[22] was a variable concept, but "the most important point is that the Court must be satisfied that that the arguments are sufficiently serious on the merits".[23]

It is thus inaccurate for Qatar to conclude that Judge Abraham "stressed that it [the appropriate test] was a low threshold of 'some minimum review'".[24] It is clear that there is here a two-fold requirement. First that the review or consideration by the Court could not be on a par with a merits hearing with determination as to rights and obligations in advance of arguments by the Parties. It could be no more than a preliminary consideration. But, secondly, that such review had to ensure that the arguments put forward by the requesting State were "sufficiently serious on the merits". To put it another way, the review may be a "low threshold" (in Qatar's terminology), but the substance and consideration of that review most certainly could not be.

It is, of course, not possible for the Court at this stage of the proceedings to conduct an "in-depth consideration of the likelihood of success on the merits" nor can it "prejudge

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[19] *Pulp Mills (Argentina v Uruguay), Provisional Measures, Order of 13 July 2006*, Separate Opinion of Judge Abraham, *I.C.J. Reports* 2006, p. 139, para. 6.

[20] Qatar's Response, para. 17.

[21] *Pulp Mills (Argentina v Uruguay), Provisional Measures, Order of 13 July 2006*, Separate Opinion of Judge Abraham, *I.C.J. Reports 2006*, p. 140, para. 8.

[22] Ibid, para. 9.

[23] Ibid, p. 141, para. 10.

[24] Qatar's Response, para. 18.

the merits of the claim".[25] but that does not mean that such matters are of no importance or relevance. This was the whole point of Judge Abraham's influential Separate Opinion which led to the acceptance of the plausibility requirement. It was, and remains, necessary to show that the claims of the State seeking the indication of provisional measures were "sufficiently serious on the merits", as Judge Abraham put it.[26] There is a good reason for this. A sovereign State cannot be ordered to undertake or refrain from undertaking a particular course of action on the basis of barely substantiated or vexatious or negligible claims. There has to be a tangible or plausible basis for such claims. No more, but no less.

Factual Plausibility

But as Qatar recognises, there is a second element to be satisfied, according to the caselaw and that is whether it is "plausible that the rights invoked are applicable to the factual situation at hand".[27] Although Qatar did not address this issue in its oral pleadings, it has clear resonance in the present case.

In *Ukraine v. Russia*, the Court in addressing Ukraine's rights under the International Convention for the Suppression of the Financing of Terrorism (the "ICSFT") for the purposes of an indication of provisional measures, noted, after an analysis of the relevant provisions of that convention, as follows:

> 75. ...the acts to which Ukraine refers (see paragraph 66 above) have given rise to the death and injury of a large number of civilians. However, in order to determine whether the rights for which Ukraine seeks protection are at least plausible, it is necessary to ascertain whether there are sufficient reasons for considering that the other elements set out in Article 2, paragraph 1, such as the elements of intention or knowledge noted above (see paragraph 74), and the element of purpose specified in Article 2, paragraph 1 *(b)*, are present. At this stage of the proceedings, Ukraine has not put before the Court evidence which affords a sufficient basis to find it plausible that these elements are present.
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> 76. Therefore, the Court concludes that the conditions required for the indication of provisional measures in respect of the rights alleged by Ukraine on the basis of the ICSFT are not met.[28]

The key test thus appears clearly in two necessary criteria. First, the relevant legal provision has to be identified and analysed as to its core requirements in order to identify whether "there are sufficient reasons for considering the ... elements [in the provisions in

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[25] Qatar's Response, para. 19.

[26] *Pulp Mills (Argentina v Uruguay), Provisional Measures, Order of 13 July 2006*, Separate Opinion of Judge Abraham, *I.C.J. Reports 2006*, p. 141, para. 10.

[27] Qatar's Response, para. 20.

[28] *Application of the International Convention for the Suppression of the Financing of International Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017*, paras. 75-76.

question] are present". Secondly, to see whether the requesting State has put before the Court "evidence which affords a sufficient basis to find it plausible that these elements are present". These two conditions refer respectively to legal and factual plausibility. Ukraine was deemed to have failed in this task in so far as the ICSFT was concerned.[29]

As to the claims under the Convention, the Court concluded that: "in the context of a request for the indication of provisional measures, a State party to Convention may avail itself of the rights under Articles 2 and 5 only if it is plausible that the acts complained of constitute acts of racial discrimination under the Convention".[30] The Court held in the circumstances that: "on the basis of the evidence presented before the Court by the Parties, it appears that some of the acts complained of by Ukraine fulfil this condition of plausibility. This is the case with respect to the banning of the *Mejlis* and the alleged restrictions on the educational rights of ethnic Ukrainians".[31]

It is important to note the nature and quality of the evidence that the Court relied upon. This evidence included a General Assembly resolution, and reports from the Office of the United Nations High Commissioner for Human Rights (the "OHCHR") and the Organization for Security and Co-operation in Europe (the "OSCE"). The OSCE report, for example, is a detailed and thorough 100 page report from a combined mission of the OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities. This Mission engaged in extensive and independent fact-finding and included a series of recommendations to interested parties.[32]

This is to be compared with the paucity of independent evidence from Qatar in the instant case. Qatar relies heavily on the anonymised and unverified reports of its own National Human Rights Committee and the OHCHR Technical Mission to Qatar report,[33] which has been heavily criticised by States, including the UAE, and which relied virtually exclusively upon Qatari sources.[34] The OHCHR report contained only 15 pages and can in no way be seen as an independent and thorough fact-finding operation. The nature and quality of Qatar's evidence has been addressed by the UAE in some detail in the oral pleadings.[35]

Further, and this is a significant difference to the Ukraine case, the UAE has submitted vital evidence, statistically underpinned, which clearly rebuts virtually all of Qatar's

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[29] Ibid.
[30] Ibid, para. 82.
[31] Ibid, para. 83.
[32] OSCE (Office for Democratic Institutions and Human Rights & High Commissioner on National Minorities), "Report of the Human Rights Assessment Mission on Crimea (6-18 July 2015)", 17 September 2015, (available at https://www.osce.org/odihr/report-of-the-human-rights-assessment-mission-on-crimea?download=true), at pp. 9-14 (recommendations); and at pp. 15, paras. 23-24 (investigative methodology).
[33] Qatar's Application, Annex 16.
[34] CR 2018/13, p. 67, para. 46 (Shaw).
[35] CR 2018/15, pp. 25 – 35, paras. 1 – 28; especially pp. 26-27, para. 3-7; pp. 32-33, paras. 22-25 and pp. 34 - 5, paras. 26-8 (Buderi). See also CR 2018/13, pp. 12-15, paras. 10-20 (Alnowais), pp. 32-34, paras. 17-24 (Treves) and pp. 63-71, paras. 23-57 (Shaw).

arguments, including in particular, the allegation consistently repeated by Qatar's Counsel that there has been a "collective expulsion" of Qataris from the UAE.[36]

On the subject of rebuttal, it is to be noted that during their first round of oral pleadings, Qatar made general criticisms of some of the evidence, and promised to deal "more fully" in the second round with the documents that the UAE had deposited with the Court in the second round.[37] Apart from brief and again rather general observations concerning the evidence submitted by the UAE relating to the special telephone line and education, this curiously never happened.[38]

Plausibility and Human Rights Treaties

Qatar has argued that "the most modest showing should be required for purposes of meeting the 'plausibility' requirement in human rights cases.[39] It is not clear why. The fact that on the whole a more generous approach to treaty interpretation has been taken in the case of human rights treaties cannot be taken to mean that the Court's procedural requirements in the case of the indication of provisional measures has been transformed where human rights treaties are concerned. There is no support in the Court's jurisprudence for the proposition that the Court has special rules of jurisdictional competence for interim measures in the case of human rights treaties. There is nothing in, for example the recent *Ukraine v. Russian Federation* case[40] or the earlier *Georgia v Russian Federation* case[41] to suggest that this has happened or indeed that it should happen. *Pulp Mills*[42] concerned *inter alia* environmental rights, *Belgium v Senegal*[43] concerned possible extradition for crimes involving the Convention against Torture and in customary international law, other provisional measures cases have also implicated human rights issues. Nowhere does one find that the Court applied a different approach as to the grant of provisional measures in such cases. The same essential requirements as to, for example, *prima facie* jurisdiction, plausibility of rights claimed, irreparable prejudice and urgency apply and there is no lesser standard proposed in such matters. If the Court came to different conclusions as to whether to indicate provisional measures with regard to different treaties in *Ukraine v. Russian Federation*, this was not because one treaty in question was a human rights treaty and the other was not; it was because the necessary criteria had been fulfilled in one case and not in the other.

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[36] See CR 2018/13, pp. 56-71, paras. 1-58 (Shaw).

[37] CR 2018/12, p. 39-40, para. 25 (Amirfar) ("... this collection of materials consists of largely self-serving statements from UAE government officials, presented mostly in redacted form and selectively chosen to paint an apparent happy picture of Qataris freely moving and living between Qatar and the UAE since June 2017 ...") and p. 63, para. 45 (Goldsmith).

[38] CR 2018/14, pp. 36-37, paras. 22-25 and pp. 42-43, paras. 53-54 (Goldsmith).

[39] Qatar's Response, para. 24.

[40] *Application of the International Convention for the Suppression of the Financing of International Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017.*

[41] *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008, p. 353.*

[42] *Pulp Mills (Argentina v Uruguay), Provisional Measures, Order of 13 July 2006, I.C.J. Reports 2006.*

[43] *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Provisional Measures, Order of 28 May 2009, I.C.J. Reports 2009*, p. 139.

Qatar argues in this context that "where there is undisputed evidence that the 5 June 2017 policy statement of the UAE's discriminatory measures against Qataris as a group has not been revoked", this should suffice to fulfil the plausibility of the claim that rights under the Convention might be breached.[44] The UAE has dealt fully in the oral pleadings with the question of the claimed "collective expulsion", as alleged by Qatar.[45] In order to deal finally with this claim by Qatar, the UAE has today issued a press statement in which it is made clear that (1) Qatari citizens already resident in the UAE need not apply for permission to continue such residence, (2) no legal or administrative laws or orders relating to expulsion of Qatari citizens from the UAE have been issued and (3) the UAE has taken no action to expel Qatari citizens remaining in the UAE following the expiry of the 14 day period referred to in the 5 June announcement.[46]

There is, accordingly, no "low threshold" with regard to plausibility generally nor specifically with regard to human rights conventions.

3. What are the implications or effects, if any, of the existence of a continuing situation allegedly affecting rights protected under a human rights Convention, for requests of Provisional Measures of Protection?

As noted in the UAE's response to question 3, where there is a continuing situation of violation of human rights, the Court would be sensitive to this and treat it with all gravity. However, the Court is a judicial institution, bound by its Statute and Rules, and cannot ignore the norms to which it is subject nor the procedural requirements by which it is constitutionally bound. Qatar does not suggest to the contrary.

Instead, Qatar argues that where there is such a continuing situation allegedly affecting the rights in dispute, "the requirement of a real and imminent risk is necessarily satisfied".[47] One does not follow from the other. It is not correct that the condition as to risk is "necessarily" satisfied. It depends upon the particular factual circumstances. The facts may indeed be such as to fulfil the condition as to real and imminent risk. Or they may not. That will be a matter for the Court to determine. There is no "necessarily" involved.

Similarly, it is not accepted that "irreparable prejudice is the natural consequence of restrictions" on rights under human rights treaties.[48] It may indeed be the result in particular situations, but, again, this is context-dependent and not inevitable. The UAE has addressed this question in its oral pleadings.[49] The case law does not sustain an

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[44] Qatar's Response, para. 28.
[45] CR 2018/13, p. 10, para. 3 (Alnowais), pp. 32-3, paras. 17 – 18 (Treves) and pp. 63 – 5, paras. 23 – 31 (Shaw); CR 2018/15, p. 38, paras. 10 – 12 (Shaw).
[46] Attached to this Response, and available at https://www.mofa.gov.ae/EN/MediaCenter/News/Pages/05-07-2018-UAE-Statement-of-MoFAIC.aspx.
[47] Qatar's Response, para. 31.
[48] Ibid, para. 32.
[49] CR 2018/15, p. 60, para. 13 (Shaw).

argument of automatic or natural consequence here. It is dependent upon the particular facts of the situation. References by the Court to possible prejudice in such circumstances cannot be interpreted as an absolute rule. The terms used by the Court, for example, in *Ukraine v. Russian Federation* are instructive. The Court noted that:

> "certain rights in question in these proceedings, in particular, the political, civil, economic, social and cultural rights stipulated in Article 5, paragraphs *(c)*, *(d)* and *(e)* of CERD are of such a nature that prejudice to them is capable of causing irreparable harm. Based on the information before it at this juncture, the Court is of the opinion that Crimean Tatars and ethnic Ukrainians in Crimea appear to remain vulnerable". [50]

The Court accepts that prejudice to the rights in question "is capable of causing irreparable harm", not that it inevitably does so. Further, the issue is decided upon the basis of persuasive evidence, not on surmise or supposition.

The perceived vulnerability of individuals and groups is certainly relevant, but it has to be shown to be credible or plausible. It has to be proved. It cannot simply be alleged on the basis of evidence which is flimsy or frail, or based considerably upon tendentious sources.

Qatar finally maintains that it has submitted "independent reporting showing continuing harm" and claims that this is "the exact type of evidence" that has sufficed for the Court in previous cases (citing *Ukraine v Russian Federation* and *Georgia v Russian Federation*).[51] This has already been dealt with earlier in this response. Suffice it to recall that the evidence it has supplied is qualitatively different from that submitted in the earlier cases, and further has been made by countervailing evidence submitted by the UAE which disproves the accuracy of the allegations made.

The UAE supports the application of the norms of international law in all their manifestations. This applies just as much to human rights as to terrorism. It fully supports the International Court of Justice in its interpretation and application of the relevant rules and principles and within the framework of the Court's own constitutional processes and procedures.

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[50] See e.g. *Application of the International Convention for the Suppression of the Financing of International Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation), Provisional Measures, Order of 19 April 2017*, para. 96 (emphasis added).

[51] Qatar's Response, para. 36.

NEWS

An official Statement by The UAE Ministry of Foreign Affairs and International Cooperation.

7/5/2018

وزارة الخارجية والتعاون الدولي

MINISTRY OF FOREIGN AFFAIRS & INTERNATIONAL COOPERATION

Since its announcement on June 5, 2017, pursuant to which the United Arab Emirates (UAE) took certain measures against Qatar for national security reasons, the UAE has instituted a requirement for all Qatari citizens overseas to obtain prior permission for entry into the UAE. Permission may be granted for a limited-duration period, at the discretion of the UAE government.

The UAE Ministry of Foreign Affairs and International Cooperation wishes to confirm that Qatari citizens already resident in the UAE need not apply for permission to continue residence in the UAE. However, all Qatari citizens resident in the UAE are encouraged to obtain prior permission for re-entry into UAE territory.

All applications for entry clearance may be made through the telephone hotline announced on June 11, 2017 (+9718002626).

As a result of the false accusations made by the State of Qatar against the UAE, the UAE deems it necessary to affirm its long-standing policy on the entry and residence conditions applicable to persons of Qatari citizenship. Since the announcement severing relations with Qatar was made by the UAE Ministry of Foreign Affairs and International Cooperation on June 5, 2017 in support of the same decisions of the Kingdom of Bahrain and the Kingdom of Saudi Arabia, the UAE has not issued any legal or administrative laws or orders relating to the expulsion of Qatari citizens from UAE territory. The UAE took no action to expel Qatari citizens and national who remained in the UAE following the expiry of the 14 day period referred to in the June 5, 2017 announcement.

The UAE regrets that Qatar continues to misrepresent the UAE's policy on the entry and residence conditions applicable to Qatari citizens. The UAE affirms its full respect and appreciation for the people of Qatar.

The UAE will continue to maintain all measures instituted against the Qatari government to address the threat it poses to regional security and the people of the UAE. The UAE calls upon Qatar to respect its international commitments and to cease its policies of sponsoring and harbouring terrorist organizations and individuals, interfering in the affairs of its neighbours and giving a platform to extremists through its religious institutions and its government controlled media networks.