



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Decision on the jurisdiction of the Committee in respect of the inter-State communication submitted by Qatar against Saudi Arabia*, **

<i>Applicant State:</i>	Qatar
<i>Respondent State:</i>	Saudi Arabia
<i>Date of communication:</i>	8 March 2018 (initial submission)
<i>Date of adoption of decision:</i>	27 August 2019
<i>Subject matter:</i>	Effective protection and remedy against any act of racial discrimination; obligation of a State party to act against racial discrimination
<i>Procedural issue:</i>	Jurisdiction of the Committee
<i>Substantive issue:</i>	Discrimination on the ground of national or ethnic origin
<i>Articles of the Convention:</i>	2, 4, 5, 6 and 11 (2)

1. The present document has been prepared pursuant to article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination.
2. Qatar (the applicant State) acceded to the Convention on 22 July 1976. Saudi Arabia (the respondent State) acceded to the Convention on 23 September 1997. The applicant State alleges a violation of articles 2, 4, 5 and 6 of the Convention, in the context of enforcement of coercive measures taken by the respondent State in 2017.
3. The present document should be read in conjunction with CERD/C/99/6.
4. On 8 March 2018, the applicant State submitted a communication against the respondent State to the Committee on the Elimination of Racial Discrimination, pursuant to article 11 of the Convention. The present document contains a summary of the main arguments regarding the jurisdiction of the Committee raised by both parties pursuant to the Committee's decision of 14 December 2018, in which the Committee requested the parties to inform it whether they wished to supply any relevant information on the issues of the jurisdiction of the Committee or the admissibility of the communication.

* Adopted by the Committee at its ninety-ninth session (5–29 August 2019).

** The following members of the Committee participated in the examination of the communication: Nourredine Amir, Alexei Avtonomov, Marc Bossuyt, José Francisco Cali Tzay, Fatimata-Binta Victoire Dah, Bakari Sidiki Diaby, Rita Izsák-Ndiaye, Keiko Ko, Gun Kut, Yanduan Li, Gay McDougall, Yemhelhe Mint Mohamed, Pastor Elías Murillo Martínez, Verene Albertha Shepherd, María Teresa Verdugo Moreno and Yeung Kam John Yeung Sik Yuen.



5. On 29 October 2018, the applicant State referred the matter again to the Committee in accordance with article 11 (2) of the Convention.

I. Communication submitted by the applicant State

A. The facts as submitted by the applicant State

6. The applicant State submits that on 5 June 2017, the respondent State, in coordination with Bahrain, Egypt and the United Arab Emirates (the “four States”), announced that they would impose sanctions on the applicant State, including blocking its borders and imposing economic and political sanctions. As part of this campaign, the respondent State enacted and implemented discriminatory policies directed at Qatari citizens and companies, including expelling all Qatari residents and visitors, without any justification under international law. Those acts have resulted, in many cases, in irreversible human rights abuses, particularly since June 2017.

7. The applicant State submits that in December 2017, the Office of United Nations High Commissioner for Human Rights (OHCHR) assessed the consequences of the above-mentioned coercive measures taken by the respondent State, Bahrain and the United Arab Emirates and concluded that the majority of the measures were broad and non-targeted, making no distinction between the Government of the applicant State and its population. OHCHR also concluded that measures targeting individuals based on their Qatari nationality or their links with the applicant State could be qualified as disproportionate and discriminatory.¹

8. The applicant State also submits that the implementation of the coercive measures targeted its people and companies on the basis only of their Qatari nationality. The applicant State further submits that in early 2017, reports and commentaries hostile to the applicant State and orchestrated by the four States began to appear in prominent media outlets.

9. On 5 June 2017, the respondent State announced coercive measures against the applicant State, including breaking off diplomatic relations. It gave Qatari diplomats 48 hours to leave Saudi Arabia, and prevented nationals of Qatar from entering Saudi Arabia or crossing its points of entry. The respondent State also gave Qatari residents and visitors 14 days to leave Saudi Arabia for precautionary security reasons. The respondent State closed its airspace and seaports to all Qataris and banned all Qatari means of transportation from crossing, entering or leaving its territory.

10. The respondent State argued that it had taken these decisive measures because of the failure by the authorities of Qatar to abide by the Riyadh Agreement on returning Gulf Cooperation Council diplomats to Doha and its Complementary Arrangement, of 2014, and the applicant State’s continued support, funding and hosting of terror groups.

11. On 23 June 2017, the respondent State, Bahrain, Egypt and the United Arab Emirates (through Kuwaiti mediators) issued a 13-point list of demands to the applicant State for it to be able to request the ending of the coercive measures. The demands were not related to security issues, but included a demand that the applicant State muzzle news outlets through which opinions sometimes critical of the respondent State were expressed. They also requested that the applicant State surrender diplomatic and strategic relationships by which it maintained its sovereignty, accede to the interference of the respondent State in the internal affairs of the applicant State and pay undetermined reparations for unidentified harms. The applicant State refused to comply with the ultimatum, but it has attempted to reach a diplomatic resolution of the conflict, to no avail.

12. The closure of air, land and sea borders and collective expulsion were implemented without warning. On 5 June 2017, the respondent State withdrew its ambassador from Qatar and instructed its citizens to leave Qatar within 14 days, under the threat of civil penalties or

¹ Office of the United Nations High Commissioner for Human Rights, “OHCHR technical mission to the State of Qatar, 17–24 November 2017: report on the impact of the Gulf crisis on human rights” (December 2017), paras. 60–64.

criminal sanctions.² The respondent State issued these directives without concern for the fact that many families in Qatar are “mixed” and made up of both Qatari and Saudi nationals. Nationals of Qatar were not allowed to travel to the respondent State with their family members, solely by virtue of their Qatari nationality.³ The respondent State’s citizens who remained in the applicant State faced the threat of severe civil penalties, including deprivation of their nationality, and criminal sanctions.⁴ The respondent State closed its airspace and airports to all Qatari airlines and aircraft.⁵ The respondent State also closed all Qatar Airways offices in the country.⁶

13. The applicant State submits that the respondent State announced the coercive measures at the beginning of the holy month of Ramadan, which had traditionally seen many Qatari pilgrims travel to Mecca for umrah. Only on 17 August 2017 did the respondent State announce that it would permit Qatari pilgrims to attend hajj. This was two weeks before the beginning of hajj in 2017, which the applicant State submits was unreasonable notice, as it made it practically impossible for Qataris to arrange their trips. The applicant State provides accounts of Qatari citizens whose ability to perform hajj or umrah was affected by the imposition of coercive measures. The applicant State also refers to the OHCHR report which noted that “at least temporarily, the restrictions of movement disrupted the exercise of freedom of religion as they were imposed in the midst of Ramadan and hajj”.⁷

14. The applicant State submits that the respondent State, along with Bahrain and the United Arab Emirates, has promulgated measures criminalizing acts that may be perceived as “sympathizing” with the applicant State. The coercive measures have had a devastating impact on Qatari nationals and families: they have led to the disruption of family unity, and interference with medical treatment since no exceptions to the respondent State’s restrictions on travel and movement have been made for persons who need to receive essential medical treatment. The coercive measures have also resulted into interference with education. Qatari students have been prevented from accessing universities in the four States.⁸ In addition to the above-mentioned violations of basic human rights, the four States have frozen assets of Qatari nationals and limited financial transfers by citizens or residents of the applicant State.⁹

B. Alleged violations of the Convention by the respondent State

15. The applicant State submits that the respondent State has violated its obligations under articles 2, 4, 5 and 6 of the Convention. It claims that the respondent State has failed to enact measures to prevent, prohibit and criminalize racial discrimination and that it has actively

² Ibid., para. 34.

³ The Saudi Press Agency subsequently stated that the Governments of Saudi Arabia and the United Arab Emirates had issued instructions to take into consideration the humanitarian circumstances of Saudi-Qatari and Emirati-Qatari joint families in enforcing the coercive measures. See “King orders to take into consideration humanitarian situations of Saudi-Qatari joint families”, Saudi Press Agency, 11 June 2017, available at www.spa.gov.sa/viewstory.php?lang=en&newsid=1638960; and “UAE President issues directives to address humanitarian cases of Emirati-Qatari joint families”, Saudi Press Agency, 11 June 2017, available at www.spa.gov.sa/viewstory.php?lang=en&newsid=1638974.

⁴ OHCHR, “OHCHR technical mission to the State of Qatar, 17–24 November 2017: report on the impact of the Gulf crisis on human rights”, para. 34.

⁵ See www.spa.gov.sa/viewstory.php?lang=en&newsid=1639637.

⁶ “General Civil Aviation Authority closes down Qatar Airways offices in the UAE”, Emirates News Agency, 7 June 2017, available at <http://wam.ae/en/details/1395302617967>.

⁷ OHCHR, “OHCHR technical mission to the State of Qatar, 17–24 November 2017: report on the impact of the Gulf crisis on human rights”, para. 26.

⁸ See, generally, National Human Rights Committee, “Educational institutions in the countries of the blockade are improper educational destination: what does the future hold for students under violations of the right of education?”; “Qatar: isolation causing rights abuses”, Human Rights Watch, 12 July 2017, available at <https://www.hrw.org/news/2017/07/13/qatar-isolation-causing-rights-abuses>; and OHCHR, “OHCHR technical mission to the State of Qatar, 17–24 November 2017: report on the impact of the Gulf crisis on human rights”, paras. 50–53.

⁹ National Human Rights Committee (Qatar), “Fourth general report on the violations of human rights arising from the blockade on the State of Qatar”, pp. 12–13.

promoted and engaged in racial discrimination and has criminalized actions intended to benefit Qataris.

16. The applicant State claims that by imposing the coercive measures, the respondent State has unlawfully targeted citizens of Qatar solely on the basis of their nationality, without any legitimate justification or individualized hearing or consideration. The applicant State also claims that, while article 1 (2) allows States parties some discretion in applying distinctions between citizens and non-citizens, this article does not permit States parties to distinguish between different groups of non-citizens.¹⁰ It submits that the respondent State has breached article 2 (1) of the Convention by enacting broad-based measures targeting all Qatari nationals and encouraging its citizens and institutions to do the same.

17. The applicant State submits that collective expulsions based on nationality or ethnicity violate rights to non-discrimination under the Convention and international law and that the fight against terrorism cannot justify discrimination based on the grounds of race, colour, descent, or national or ethnic origin.¹¹ The applicant State submits that several international treaties and bodies, including the International Court of Justice,¹² the Arab Charter on Human Rights,¹³ the European Court of Human Rights¹⁴ and the Inter-American Court of Human Rights,¹⁵ recognize that massive expulsions based on ethnicity or nationality constitute a violation of human rights.

18. The applicant State submits that prohibiting nationals of Qatar from entering into or passing through the respondent State's territory, and recalling the respondent State's citizens¹⁶ without any individual consideration, clearly violate the Convention's prohibition on discrimination on the basis of national origin, including discrimination against non-citizens as set out in the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens.

19. The applicant State argues that the respondent State has violated articles 2 and 5 of the Convention, by failing not only to eliminate racial discrimination in all its forms but also to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.

20. The applicant State argues that the respondent State, by enacting and enforcing the coercive measures, has violated a number of the human rights recognized under international law and enumerated in article 5 of the Convention, and has interfered with the rights of nationals of Qatar.

21. By recalling the respondent State's citizens from the applicant State, and prohibiting the respondent State's citizens from travelling to the applicant State, the respondent State has unlawfully interfered with their rights to marriage and family life, in breach of article 5 (d) (iv) of the Convention.

¹⁰ See, generally, the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens.

¹¹ A/63/18, para. 110.

¹² The International Court of Justice later issued a judgment, on 1 April 2011, finding that certain procedural preconditions outlined in art. 22 of the Convention had not been met, meaning that the Court did not have jurisdiction to proceed to the merits of the dispute. It noted, however, that while the order for provisional measures was no longer operative, the parties were under a duty to comply with their obligations under the Convention, of which they had been reminded in that order; see the *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia v. Russian Federation)*, *Preliminary Objections, Judgment*, I.C.J. Reports 2011, p. 70, para. 186.

¹³ Of 22 May 2004, which entered into force on 15 March 2008; see art. 26 (2).

¹⁴ Ibid. See also European Court of Human Rights, *Čonka v. Belgium* (application No. 51564/99), judgment of 5 February 2002; *Georgia v. Russia* (application No. 13255/07), judgment of 3 July 2014; *Shioshvili and others v. Russia* (application No. 19356/07), judgment of 20 December 2016; and *Berdzenishvili and others v. Russia* (applications Nos. 14594/07, 14597/07, 14976/07, 14978/07, 15221/07, 16369/07 and 16706/07), judgment of 20 December 2016.

¹⁵ See, for example, the *Case of Expelled Dominicans and Haitians v. Dominican Republic*, judgment of 28 August 2014.

¹⁶ Saudi Press Agency, "United Arab Emirates severs relations with Qatar", 5 June 2017, available at www.spa.gov.sa/viewstory.php?lang=en&newsid=1637351.

22. The applicant State submits that the coercive measures have prevented many Qatari pilgrims from travelling on time to Mecca for umrah or to attend hajj, and therefore have violated the rights of its citizens to freedom of thought, conscience and religion, in breach of article 5 (d) (vii) of the Convention.

23. The applicant State further submits that the respondent State has triggered a manipulation of the press and disseminated false statements and ideas against Qatari media outlets and blocked the transmission of Al Jazeera and other Qatari stations and websites. It considers that this amounts to interference with the right to freedom of expression, and transgresses the principles of inclusion and respect for diversity that underlie the Convention.

24. The applicant State submits that the coercive measures have led to the violation of the right to public health and medical care for Qataris, who have been expelled and prohibited from travelling between Qatar and Saudi Arabia or from continuing their treatment in the four States.¹⁷ The coercive measures imposed by the respondent State have also unduly interfered with the right to education,¹⁸ as many university students were forced to interrupt their programmes of study in the respondent State and return home to the applicant State.

25. The applicant State submits that the respondent State has violated article 5 (e) (i) of the Convention in relation to the enjoyment of “the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration”. The coercive measures, and in particular the forced expulsion of citizens of Qatar from the respondent State and the restrictions on future travel, have forced many people to abandon their jobs for fear of severe punishment if they do not comply.¹⁹

26. In violation of article 5 (d) (v) of the Convention, the respondent State, through the coercive measures, has severely disrupted property rights of citizens of Qatar, who have been denied the ability to access, enjoy, utilize or manage their property.

27. The applicant State also claims that the respondent State has denied citizens of Qatar the right to equal treatment before tribunals, in violation of article 5 (a) of the Convention. Citizens of Qatar have effectively been unable to enter Saudi Arabia, hire an attorney, challenge discrimination, have their voices heard, or otherwise exercise their rights. The applicant State submits that the respondent State has departed from its obligation under article 4 (a) and (c) of the Convention to condemn racial hatred and incitement, and from its duty to prevent “public authorities or public institutions, national or local” from promoting or inciting racial discrimination.²⁰ The respondent State also has not complied with its obligation to punish ideas based on racial superiority or hatred, and incitement to racial discrimination.²¹

28. The applicant State submits that the respondent State has violated its obligation under article 6 of the Convention, with regard to the failure by the respondent State to provide to everyone within its jurisdiction effective protection and remedies against any acts of racial discrimination.

29. On the basis of article 11 (1) of the Convention, the applicant State requested the Committee to transmit its communication to the respondent State. The respondent State was invited to respond within the three-month period set forth under that article, and to take all steps necessary to end the coercive measures, which were in violation of international law and of its obligations under the Convention. The applicant State reserved its right to

¹⁷ National Human Rights Committee (Qatar), “Second report regarding the human rights violations as a result of the blockade on the State of Qatar”, p. 23; and Peter Beaumont, “Human cost of the Qatar crisis: ‘families are being torn apart’”, *The Guardian*, 14 June 2017, available at www.theguardian.com/world/2017/jun/14/human-cost-of-the-qatar-crisis-families-are-being-torn-apart.

¹⁸ See the Committee’s general recommendation No. 30, para. 31.

¹⁹ National Human Rights Committee (Qatar), “Second report regarding the human rights violations as a result of the blockade on the State of Qatar”, pp. 12–15. At the beginning of the crisis, the National Human Rights Committee received numerous complaints from nationals of the United Arab Emirates who were unable to work following the coercive measures.

²⁰ International Convention on the Elimination of All Forms of Racial Discrimination, art. 4 (c).

²¹ *Ibid.*, art. 4 (a).

supplement and amend its communication, in the light of developments, as well as its request for relief, and its right to all other dispute resolution avenues open to it.

II. Submission of the respondent State

30. On 2 August 2018, the respondent State requested an extension of 30 days, which was granted by the Committee on 7 August 2018.

31. On 7 September 2018, the respondent State submitted a reply to the inter-State communication. In it, the respondent State argues that the Committee has no jurisdiction to review the communication on the grounds that it does not fall within the scope of the Convention because it does not involve a situation in which a State party is not giving effect to the provisions of the Convention.

32. The respondent State argues that the applicant State's submission is based on an erroneous interpretation of "racial discrimination" as defined in article 1 (1) of the Convention, so as to include differential treatment on the basis of nationality. The respondent State argues that differentiation based on nationality is a common international practice. Under the Convention, differentiation based on nationality is not a prohibited ground of racial discrimination, therefore it falls outside the Convention and the mandate of the Committee.

33. The respondent State states that it severed diplomatic and consular ties with the applicant State due to its violation of the commitments it had undertaken in a series of agreements concluded among the Gulf States (the Riyadh Agreement on returning Gulf Cooperation Council diplomats to Doha and its Complementary Arrangement, of 2014), as well as its continued support for terrorism and attempts to destabilize the region.

34. The respondent State asserts that the coercive measures undertaken were "precipitated by Qatar's own actions and failure to abide by obligations it undertook in a series of agreements commonly referred to as the 'Riyadh Agreements'".

35. The respondent State indicates that the actions taken are fully consistent with its right under customary international law to safeguard its national security. It also asserts its position that the measures it has taken are not a violation of its obligations under the Convention.

III. Additional submissions of the respondent State

36. On 18 January 2019, the respondent State submitted a reply to the Committee's decision of 14 December 2018. The respondent State requested from the Committee a deadline extension of 18 days in order to provide a substantive reply to the communication. On 21 January 2019, the Committee provided its response. It considered that, while the requested extension could not be granted in the circumstances, it would maintain some degree of flexibility in terms of the date of receipt of the additional observations, provided that the non-compliance with the deadlines imposed did not compromise the calendar of the Committee, nor the equality between the States concerned.

37. On 29 January 2019, the respondent State submitted its reply to the Committee's decision of 14 December 2018. The reply was same as the reply submitted on 7 September 2018.

IV. Comments of the applicant State

38. On 14 February 2019, the applicant State submitted its comments on the respondent State's submission dated 29 January 2019. The applicant State argues that the alleged violations fall within the scope of the Convention.

39. The applicant State recognizes that article 1 (2) provides that the "Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State party to this Convention between citizens and non-citizens", nevertheless it argues that this article does not permit States parties to distinguish between different groups of non-citizens, unless this

differential treatment is for a legitimate aim and is carried out in a way that is proportionate to that aim.²² The applicant State also argues that “any interpretation of the Convention that would allow States parties to discriminate on the basis of an individual’s present nationality would contradict the Convention’s explicit object and purpose of eliminating racial discrimination ‘in all its forms and manifestations’, in that it would limit its ability to effectively protect against contemporary forms of racial discrimination”.

40. The Convention’s definition of “racial discrimination” explicitly covers discrimination “which has the purpose or effect” of impairing the enjoyment of human rights.²³ The applicant State thus argues that the discriminatory effects of the coercive measures bring the respondent State’s conduct within the ambit of the Convention. By discriminating on the basis of nationality, the effects of the coercive measures are felt by persons of Qatari national origin in the historical and cultural sense of heritage or descent.

41. Furthermore, the applicant State indicates that nationality is encompassed by “national origin” in article 1 (1) of the Convention, which may be evidenced by the ordinary meaning of the term read in context, by the Convention’s object and purpose and by examination of the *travaux préparatoires*. In this regard, it refers to various dictionary definitions in order to determine the ordinary meaning of “national origin” as consistent with article 31 of the Vienna Convention on the Law of Treaties. The applicant State submits that “national origin relates to the country or nation where a person is from, or where a person’s ancestors were from, extending to an individual’s association with a particular country or nation in both a historical-cultural sense, for example by virtue of an individual’s membership in a community defined by, and subject to, a common government”. The applicant State further considers that article 1 (2) and (3) of the Convention allows States parties to make distinctions, exclusions, restrictions or preferences between citizens and non-citizens, and to maintain legal provisions concerning nationality, citizenship or naturalization where such provisions do not discriminate against certain nationalities, so long as States parties do not do so in a way that falls foul of article 1 (1). In support of this assertion, the applicant State refers to the Committee’s general recommendation No. 30.²⁴

42. Also in reference to the *travaux préparatoires*, the applicant State indicates that throughout the drafting of the Convention, “delegates expressed the view that the term ‘national origin’ could be interpreted in a number of different ways, including to encompass nationality in the sense of citizenship as well as in the sense of an individual’s historical connections to a State”.²⁵ On the basis of the *travaux préparatoires*, the applicant State concludes that the delegates understood “national origin” as capable of encompassing present nationality.²⁶ Furthermore, the applicant State argues that a broad application of the terms of article 1 (1) in which “national origin” is given the widest application possible is in line with the intent of the drafters.

43. The applicant State argues that the fundamental protection against discrimination is a *jus cogens* norm and an obligation *erga omnes* from which there can be no derogation.²⁷

V. Further submissions of the applicant and respondent States

44. On 19 March 2019, the respondent State transmitted its arguments to the Committee on the issues of jurisdiction and admissibility. On 25 March 2019, the applicant State submitted that the respondent State’s submission of 19 March 2019 should be rejected by the

²² See the Committee’s general recommendation No. 30, para. 4.

²³ International Convention on the Elimination of All Forms of Racial Discrimination, art. 1 (1).

²⁴ See the Committee’s general recommendation No. 30, paras. 1–2.

²⁵ A/C.3/SR.1304, para. 16.

²⁶ The applicant State refers to the amendment by France and the United States of America which proposed excluding the term “nationality”, and indicates that this was rejected in favour of a compromise amendment which maintained the Convention’s primary goal of eliminating all forms of racial discrimination. The applicant State refers also to A/6181, para. 37.

²⁷ It supports this argument by referring to Inter-American Court of Human Rights advisory opinion No. 18/03 on the juridical condition and rights of undocumented migrants (17 September 2003), para. 101.

Committee, as it had been submitted after the deadline set by the Committee had lapsed. The applicant State also noted that such submission raised new issues, as in it, the respondent State contested the admissibility of the communication.

45. On 1 April 2019, bearing in mind the principle of equality of arms, the Committee held that the submission could not be taken into account by the Committee at that stage of the procedure, as it raised issues not previously raised and had been submitted far beyond the deadline indicated in the Committee's decision of 14 December 2018, which had been notified to the respondent State on the same date.

46. On 3 May 2019, the Committee, pursuant to its decision of 14 December 2018, conducted its hearings on the matter, on the issues of jurisdiction and admissibility, with the participation of one representative from each party, in accordance with article 11 (4) and (5) of the Convention and the rules of procedure adopted by the Committee on 29 April 2019.²⁸

47. During the hearings, the respondent State presented its view that nationality had been excluded as a basis of racial discrimination for the purposes of the Convention, as article 1 (2) referred to the right of States to make distinctions between citizens and non-citizens. This was, therefore, indicative of a right to accord differential treatment on the basis of nationality. The respondent State also emphasized that article 1 (3) provided that the Convention should not be interpreted "as affecting in any way the legal provisions of States parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality". The respondent State also asserted that that provision was indicative of the awareness by the drafters of the Convention of the difference between "national origin" and "nationality".

48. The respondent State argued that revoking special privileges granted to a particular nationality was in line with the practice of certain States. The respondent State also argued that the applicant State had not presented any arguments on discrimination based on the grounds of race, colour, descent, or national or ethnic origin. The respondent State also submitted that the fact that the measures taken had affected persons of one or more national origins was insufficient to bring the measures within the scope of the Convention.

49. In turn, the applicant State reiterated the arguments it had previously raised in its written submissions.

VI. Decision of the Committee on its jurisdiction in respect of the inter-State communication

50. Before considering the appointment of an ad hoc Conciliation Commission pursuant to article 12 (1) of the Convention, the Committee must first be satisfied that it has jurisdiction in respect of the inter-State communication submitted on 8 March 2018 by Qatar against Saudi Arabia pursuant to article 11 (1) of the Convention.

51. The Committee notes that, in its response dated 7 September 2018, the respondent State raised the issue of lack of jurisdiction of the Committee on the grounds that the Convention did not prohibit "differentiation based on present nationality".

52. The ground invoked for lack of jurisdiction raises an issue of interpretation of the concept of racial discrimination as prohibited by the Convention. This issue is discussed in the submissions of the applicant State and of the respondent State. The Committee considers that this question raises the preliminary issue of its competence *ratione materiae*. It does not affect the jurisdiction of the Committee and is to be examined when dealing with the question of the admissibility of the communication.

53. In the absence of any other exception of jurisdiction raised by the respondent State, the Committee decides that it has jurisdiction to examine the exception of inadmissibility raised by the respondent State.

²⁸ In order to address the issues of jurisdiction and admissibility, the Committee adopted, on 29 April 2019, its rules of procedure regarding the hearings carried out pursuant to article 11 of the Convention.