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AL JAZEERA FORMALLY INITIATES ARBITRATION CASE AGAINST THE ARAB REPUBLIC OF EGYPT

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Al Jazeera's international arbitration claim against Egypt has formally commenced under the jurisdiction of the International Centre for Settlement of Investment Disputes (ICSID) in Washington, DC. The claim follows a prolonged campaign mounted against Al Jazeera's business activities and journalists by the Egyptian military government.

In April 2014, Al Jazeera served a formal Notice of Dispute on Egypt pursuant to the 1999 Qatar-Egypt Bilateral Investment Treaty. The terms of the Treaty required that Al Jazeera thereafter refrain from formally commencing Arbitration for a period of at least 6 months to enable the parties to engage in settlement discussions; however, at no point up to or after the expiry of that 6-month period at the end of October 2014 did Egypt show any interest at all in entering into any such discussions or engaging in any manner with Al Jazeera. Having allowed a further 12 months to pass, in the vain hope that Egypt would be willing to talk, Al Jazeera recently submitted its formal Request for Arbitration to the Secretary-General of ICSID, who registered the Request on 20 January 2016 pursuant to Article 36 of the 1965 ICSID Convention.

In the months following the overthrow of the Morsi Government by the Egyptian military, a large number of journalists working for Al Jazeera were subjected to harassment, arrest and detention, either without charge or on clearly spurious and politically motivated charges. Three Al Jazeera journalists, Peter Greste, Baher Mohamed and Mohamed Fahmy were sentenced to 7 years and more in prison in June 2014, with those convictions being confirmed in August 2015 following a protracted retrial. Peter Greste was re-convicted in absentia having been released from prison in February 2015 while Baher Mohamed and Mohamed Fahmy were pardoned and eventually released from prison on 23 September 2015, shortly before President Sisi was due to address the UN General Assembly in New York. Numerous other Al Jazeera journalists have been convicted by Egyptian courts in absentia; as with Mr Greste their convictions remain current and they have yet to be pardoned.

In addition to this unlawful treatment of its journalists, Al Jazeera's facilities in Egypt suffered attacks by the military, police and gangs supporting the military government, while the network itself was subjected to a sustained campaign of harassment and intimidation involving the jamming of transmissions and broadcasts, as well as the closure of offices and other facilities. Al Jazeera's licence to broadcast in Egypt was also cancelled and its local branch subjected to a compulsory liquidation procedure.

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As well as being in breach of its obligations under international law generally, Egypt's actions have placed it in clear breach of its obligations under the Qatar-Egypt Bilateral Investment Treaty, which requires that investors be afforded fair and equitable treatment by the governments of both countries and provides other enforceable rights. The Bilateral Investment Treaty also obliged Egypt to treat Al Jazeera in a manner consistent with its obligations under international human rights treaties, for example to respect Al Jazeera's and its employees' right to freedom of expression, as well as Al Jazeera's employees' right not to be arbitrarily detained or to suffer inhuman or degrading punishment.

As a result of Egypt's breaches of its international legal obligations, Al Jazeera's very significant investment in Egypt has been confiscated and, at a conservative estimate, it has suffered losses of at least USD 150 million.

Speaking today, an Al Jazeera spokesman said:

“Following Egypt's complete and ongoing failure to engage at all with the Notice of Dispute served in April 2014, and its continuing attacks upon the network and its staff Al Jazeera has now been left with no option but to formally commence legal action via ICSID arbitration. Al Jazeera has launched this claim to protect the rights of its staff, who have been subjected to an on-going campaign of harassment, intimidation and, in a number of cases, wholly unjustified and politically motivated criminal prosecution and imprisonment, together with its own rights under international law in respect of the series of measures to which it has been subjected since mid-2013.

Al Jazeera takes the safety and security of its staff – and their rights under international law, including the right to freedom of expression and the right not to be arbitrarily detained or to suffer inhuman or degrading punishment – extremely seriously and hopes, in particular, that the Arbitration it is pursuing against Egypt will allow an impartial, international Tribunal to render its own judgment in respect of the series of politically motivated prosecutions and false charges to which Egypt has subjected a number of our journalists.”

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