

INTERNATIONAL COURT OF JUSTICE

YEAR 2018

**2018
17 January
General List
No. 168**

17 January 2018

JADHAV CASE

(INDIA v. PAKISTAN)

ORDER

Present: *President* ABRAHAM; *Vice-President* YUSUF; *Judges* OWADA, TOMKA, BENNOUNA, CANÇADO TRINDADE, GREENWOOD, XUE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, ROBINSON, GEVORGIAN; *Judge ad hoc* JILLANI; *Registrar* COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 44, 45, paragraph 2, 48 and 49 of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 8 May 2017, whereby the Republic of India (hereinafter “India”) instituted proceedings against the Islamic Republic of Pakistan (hereinafter “Pakistan”), concerning alleged violations of the Vienna Convention on Consular Relations of 24 April 1963 “in the matter of the detention and trial of an Indian National, Mr. Kulbhushan Sudhir Jadhav”, sentenced to death in Pakistan,

Having regard to the request for the indication of provisional measures submitted by India on 8 May 2017 and to the Order by which the Court indicated provisional measures on 18 May 2017,

Having regard to the Order dated 13 June 2017, whereby the President of the Court fixed 13 September 2017 and 13 December 2017 as the respective time-limits for the filing of a Memorial by India and a Counter-Memorial by Pakistan,

Having regard to the Memorial and the Counter-Memorial duly filed by the Parties within those time-limits;

Whereas, by a letter dated 19 December 2017, the Agent of India indicated, *inter alia*, that the Counter-Memorial of Pakistan raised “issues of fact and law that may not necessarily have been anticipated by India and considered in the Memorial filed by India”; whereas he further stated that the Government of India, referring to Article 45, paragraph 2, of the Rules of Court, requested the Court to authorize the submission of a Reply by India and a Rejoinder by Pakistan; and whereas the Agent indicated that India requested that each Party be granted a period of three months for the preparation of its pleading;

Whereas, by letter dated 5 January 2018, the Co-Agent of Pakistan stated, *inter alia*, that the Government of Pakistan considered that “the Court [was], following receipt of the initial written pleadings, sufficiently informed of the contentions of fact and law relied upon by India and Pakistan” and that the submission of further pleadings in the case was not necessary; whereas the Co-Agent further stated that,

“[n]evertheless, and without prejudice to the foregoing, in the event that India is further and clearly able to particularise the basis for its request for a further round of pleadings, within a shorter time frame, in the interests of ensuring a full and fair process, Pakistan may be amenable to acceding to a further round of pleadings, should the Court also consider this to be necessary”;

Whereas, by letter dated 5 January 2018, India, in light of the views expressed by Pakistan, was invited to furnish the Court with any further observations that it may wish to make by 10 January 2018; and whereas by letter of the same date Pakistan was informed that it would have the opportunity to provide any comments it may wish to make on those observations by 15 January 2018;

Whereas, by letter dated 10 January 2018, the Agent of India reiterated its position that Pakistan, in its Counter-Memorial, had for the first time “set out its defence and in doing so ha[d] raised various issues of fact and law”; whereas he further stated that Pakistan, in particular, was seeking to develop various legal theories as a defence against violations of the Vienna Convention; whereas the Agent of India stated that the allegations of fact and submissions of law made by Pakistan in its Counter-Memorial “would have to be fully rebutted”; whereas the Agent indicated further that India also sought an opportunity to place on record recent developments in the case; and whereas, finally, the Agent reiterated India’s request that the Court authorize the submission of a Reply and that a period of three months be granted for the preparation of that pleading;

Whereas, by letter dated 15 January 2018, the Co-Agent of Pakistan submitted that India still failed to identify any issue that could not have been addressed in its Memorial and that it was “in essence, now seeking a further opportunity (if not a second chance) to supplement its Memorial, in

respect of facts and matters that it should already have addressed”; whereas the Co-Agent stated in his letter that India could not be taken by surprise by the content of the Counter-Memorial, since Pakistan had already presented its key arguments during the proceedings on provisional measures despite of the urgency and short notice; whereas the Co-Agent added that the interests of justice and fairness would not be served by delaying the adjudication of the case yet further; whereas the Co-Agent nevertheless indicated that “with due deference to the Court . . . Pakistan would respectfully consent to a further round of pleadings, which permits two months to India to serve its Reply and Pakistan two months thereafter for a Rejoinder”;

Taking into account the views of the Parties and the circumstances of the case,

Authorizes the Republic of India to submit a Reply and the Islamic Republic of Pakistan to submit a Rejoinder;

Fixes the following time-limits for the filing of those pleadings:

17 April 2018 for the Reply of the Republic of India;

17 July 2018 for the Rejoinder of the Islamic Republic of Pakistan; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this seventeenth day of January, two thousand and eighteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of India and the Government of the Islamic Republic of Pakistan, respectively.

(Signed) Ronny ABRAHAM,
President.

(Signed) Philippe COUVREUR,
Registrar.
