



## **VI Annual Caribbean Court of Justice International Law Moot (2014)**

**Abdul Azim Qasim**

**v**

**the Republic of Trinidad and Tobago**

Abdul Azim Qasim was born in 1989 into one of the wealthiest and most privileged families in Kyrgyzstan (also known as the Kyrgyz Republic); a country which has had a long struggle for political stability amid ethnic conflicts, revolts, economic troubles, and transitional governments. Abdul received his tertiary education in The Netherlands where he attended the Faculty of Civil Engineering and Geosciences of world renowned Delft University of Technology. After graduating he went on to obtain a Master's Degree in Water Management and Engineering. Abdul is proficient in Kyrgyz and Russian. He has a working knowledge of Dutch but his English is basic at best.

Having been targeted by religious and political enemies, Abdul, with the encouragement of his family, decided to acquire another nationality in the event that flight from his native country became necessary. With the assistance of an interpreter, in 2012 Abdul completed the prescribed government forms in the citizenship-by-investment programme offered by the government of Antigua and Barbuda, paid the required portion of the due diligence fee and within 1 month was notified that his application had been approved.

Abdul visited Antigua in 2013 and completed the process by making a non-refundable contribution to the National Development Fund of US\$250,000, paying the relevant government processing fees and remainder of the due diligence fee, and residing in Antigua for over 35 days. He received his Antigua and Barbuda passport valid for 5 years.

Abdul decided that he would like to visit Trinidad and probably even seek part-time employment in the flood water management sector to gain experience and make contacts. By force of habit, he presented his Kyrgyzstan passport to the Immigration Officer, but then quickly filled in another form and presented his Antigua and Barbuda passport. He was questioned, detained and deported to Antigua on the basis that as a citizen of Kyrgyzstan he required a visa to enter Trinidad and Tobago.

Abdul was incensed and, after consultations with the Antigua and Barbuda Ministry of Foreign Affairs, he commenced leave proceedings with the consent of that State under Article 222 of the Revised Treaty seeking declarations that:

- (1) As a national of Antigua and Barbuda he was entitled to enter and remain in Trinidad for up to 6 months; and that
- (2) As a graduate of a recognized university he was entitled to seek employment in Trinidad and Tobago.

The Government of Trinidad and Tobago objects to the grant of leave on the grounds that:

- (a) Abdul is an economic citizen of Antigua and Barbuda and as such does not qualify as a community national; and, in any event;
- (b) A community national who is a recognised university graduate must receive a skilled national certificate as a condition precedent to the entitlement to seek employment; and in any event,
- (c) The State of Trinidad and Tobago, as a party to the dispute, was entitled and intended to seek an advisory opinion from the CCJ on the preceding two questions and therefore special leave should not be granted. Indeed, it provided a copy of a draft request that it was prepared to undertake to submit to the CCJ upon special leave being refused.

Abdul responds that Antigua and Barbuda has expressly consented to his bringing the Article 222 proceeding and, therefore, he *is* entitled to pursue his action and Trinidad and Tobago is *not* entitled to avoid contentious litigation by seeking an advisory opinion.

All case management procedures have been observed and the matter is set for hearing at the seat of the CCJ on 13<sup>th</sup> March 2014.

At the hearing:

- Leading Counsel for the Applicant, Abdul, will argue points (1) and (2) raised in the leave application; and Junior Counsel will argue point (c) raised in the objection by Trinidad and Tobago.
- Leading Counsel for the Respondent, Trinidad and Tobago, will argue points (a) and (b) raised in the objection to the application for leave; and Junior Counsel will argue point (c) raised in the objection.