

**PCA CASE NO 2012-07**

**IN THE MATTER OF AN ARBITRATION UNDER THE AGREEMENTS  
BETWEEN THE REPUBLIC OF FINLAND AND THE ARAB REPUBLIC OF  
EGYPT ON THE PROMOTION AND PROTECTION OF INVESTMENTS  
RESPECTIVELY DATED 5 MAY 1980 AND 3 MARCH 2004 AND THE  
UNCITRAL ARBITRATION RULES 1976**

**BETWEEN**

**MOHAMED ABDEL RAOUF BAHGAT**

**The Claimant**

**- And -**

**THE ARAB REPUBLIC OF EGYPT**

**The Respondent**

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**CLAIMANT'S SUPPLEMENTARY COUNTER-MEMORIAL ON JURISDICTION**

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**ARBITRAL TRIBUNAL**

**Professor Rüdiger Wolfrum, Presiding Arbitrator  
Professor W. Michael Reisman  
Professor Francisco Orrego Vicuña**

Registry

Permanent Court of Arbitration

9. In paragraph 71 of the Respondent's Request for Bifurcation the Respondent went on to submit that the application of the principles of Finnish nationality law resulted in "the incontrovertible conclusion that Claimant lost his Finnish nationality by operation of Finnish law in 1997".
10. The Respondent's expert witness on Finnish Nationality Law, Professor Scheinin, produced amongst other things an email from Senior Inspector Karoliina Hyttinen of the Finnish Immigration Service supporting this view of the Finnish nationality law.<sup>3</sup>
11. In paragraph 3.35 of the Claimant's Counter-Memorial on Jurisdiction the Claimant stated that the same official (but now Karoliina Korte, with surname changed after marriage) from the Finnish Immigration Office conducted an investigation into his Finnish nationality and decided that the Claimant lost his Finnish nationality in 1997 when he had obtained his Egyptian nationality. The Claimant challenged the decision dated 23 April 2013 as legally wrong under Finnish law.
12. The Supreme Administrative Court,<sup>4</sup> the highest court of appeal on the issue in Finnish law, has now finally decided to uphold the Claimant's challenge against the Finnish Immigration Office's determination dated 23 April 2013 ("the Judgment"). The Supreme Administrative Court revoked the Finnish Immigration Office's determination and held that the Claimant has remained a Finnish citizen since 1971 and that his "citizenship status as a Finnish citizen has not changed from the time of receiving Finnish citizenship in 1971, up to the decision of the Finnish Immigration Service".<sup>5</sup> A copy of the Judgment made on 15 November 2016, together with a certified copy of an English translation, is now shown as Exhibit C70.
13. The Supreme Administrative Court has also refused to send the issue back to the Finnish Immigration Office and ordered the Finnish Immigration Office to pay substantial costs to the Claimant together with interest for late payment.
14. The Judgment is completely consonant with and supports the Claimant's earlier submissions made before the Tribunal on his Finnish nationality.<sup>6</sup>
15. The Judgment demolishes the Respondent's position taken in its Request for Bifurcation<sup>7</sup> to the effect that the Claimant lost his Finnish nationality automatically

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<sup>3</sup> See paragraph 47 of the Professor Scheinin's expert opinion. A copy of her email with an English translation is produced in tab 1.1 of his report.

<sup>4</sup> The circumstances in which the matter went before the Supreme Administrative Court in Helsinki are dealt with at page 12/20 of the English translation of the Judgment.

<sup>5</sup> First sentence of page 9/20 of the English translation of the Judgment.

<sup>6</sup> See relevant contents from Claimant's Counter-Memorial on Jurisdiction quoted in paragraph 4 above.

in 1997 when he took on Egyptian nationality. The Judgment demonstrates that both Professor Scheinin's Opinion dated 22 January 2013 and the subsequent Finnish Immigration Office's determination dated 23 April 2013 to the effect that the Claimant automatically lost his Finnish nationality when he was given Egyptian nationality in 1997 were misconceived, erroneous and unfounded.

16. At page 12/20 of the English translation of the Judgment, the Supreme Administrative Court pointed out that the Finnish Immigration Office's investigation of the Claimant's Finnish nationality was triggered by an enquiry made on 26 December 2012 by the Respondent on the Claimant's Finnish nationality.
17. The Supreme Administrative Court also stated in the penultimate paragraph of page 12 of its Judgment that "The Finnish Immigration Service in its response to the note of the Egyptian Ministry of Foreign Affairs on Jan 22<sup>nd</sup>, 2013 informed that starting from Feb 12<sup>th</sup>, 1971 he has been considered to be a Finnish and Egyptian dual national in Finland."<sup>8</sup> Copies of (a) the Note of enquiry from the Respondent to the Finnish Embassy in Cairo dated 26 December 2012, (b) the Finnish Immigration Service's reply to the Finnish Embassy in Cairo dated 22 January 2013 and (c) a Verbal Note dated 2 January 2015 from the Respondent's Embassy in Finland to the Finnish Foreign Office (and enclosing copies of its submissions made before this Tribunal on the Claimant's Finnish nationality for onward transmission to the Finnish Immigration Office) are now produced marked as Exhibit C71.

Respondent's arguments on the Claimant's loss of Finnish nationality have been dismissed by the Supreme Administrative Court

18. The Respondent's expert witness Professor Scheinin opined, in clear support of the Respondent's case, that
  - i. "Pursuant to the 1968 Nationality Act, as amended in 1984 and in force at the material time, the Claimant lost his Finnish nationality automatically and by the force of law itself on the day he acquired Egyptian nationality through his application, declaration or consent, i.e. on 28 September 1997."<sup>9</sup>

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<sup>7</sup> The Finnish Immigration Office submitted a copy of the Respondent's Request for Bifurcation before the Finnish Administrative Courts in support of its position on Finnish nationality law. See the last paragraph of page 12/20 of the English translation of the judgment of the Supreme Administrative Court.

<sup>8</sup> The Finnish Immigration Office's response dated 22 January 2013, written by Miss Karoliina Hyttinen, which states that "... Bahgat is both Egyptian and Finnish" contradicts Miss Hyttinen's earlier statement ("Before 1 June 2003 Finland did not accept multiple nationality..") given to Professor Schienin and quoted by him in paragraph 47 of his opinion.

<sup>9</sup> See paragraph 94 of the Respondent's Request for Bifurcation and Paragraph 35 of the Professor Scheinin's written Expert Opinion.