

Federal Court



Cour fédérale

**Date: 20101207**

**Docket: IMM-988-10**

**Citation: 2010 FC 1231**

**Ottawa, Ontario, December 7, 2010**

**PRESENT: The Honourable Mr. Justice Zinn**

**BETWEEN:**

**LUCAS GABOR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Reasons for Judgment were issued November 10, 2010, dismissing Mr. Gabor's application for judicial review of the decision that he was neither a Convention refugee nor a person in need of protection. The parties were permitted an opportunity to propose questions for certification. These additional reasons relate solely to that discrete issue.

[2] The applicant has proposed the following question for certification:

Do unequivocal comments made by the Minister of Immigration [*sic*], namely that “it’s hard to believe the Czech Republic is an island of persecution in Europe” give rise to a reasonable apprehension of bias, notwithstanding the contemporaneous release of IRB issue papers that are not unequivocal and are inconclusive on the same issue, and given the dramatic drop in the acceptance rate of Czech Roma claims over the relevant period.”

Alternatively, the applicant proposes the following question:

Can opinions expressed by a Minister about the resolution of cases assigned to an independent tribunal give rise to a reasonable apprehension of bias, even where those opinions draw selectively on internal documents produced by the independent tribunal?

[3] The respondent opposes certification of either question.

[4] The applicant writes that the proposed question “takes issue with the Court’s finding at par. 30 that the IRB issue papers must be divorced entirely as a factor before considering whether the Minister’s remarks could give rise to a reasonable apprehension of bias.” That is not the finding at paragraph 30 of the Reasons for Judgment. That paragraph of the Reasons addressed a submission made by the applicant that the IRB reports could not have lead to the decrease in acceptance rate of claims from the Czech Republic. The Court expressed the view that it was not the role of the Court to speculate as to the impact of the reports unless the reports were unambiguous on the issue of whether Czech Roma were persecuted and have no state protection available to them. The reports contained no such conclusion and, accordingly, the applicant’s submission was rejected.

[5] In any event, I agree with the respondent that the question posed seeks to exclude one of the relevant facts in the case, the impact of the issuance of the reports, a fact that was addressed by the parties and considered by the Court in reaching its decision. It was accepted by the Court that the

reports could have led to the drop in the acceptance rate. Accordingly, the question proposed would not be determinative of an appeal.

[6] I also agree with the respondent that the alternative question proposed is hypothetical, namely, that the comments of the Minister at issue in the application “draw selectively on internal documents produced by the independent tribunal.” A response to a hypothetical question cannot be determinative of an appeal from the decision and it is not appropriate for certification.

**JUDGMENT**

**THIS COURT'S JUDGMENT IS that** this application is dismissed and no question is certified.

“Russel W. Zinn”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-988-10

**STYLE OF CAUSE:** LUCAS GABOR v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 2, 2010

**REASONS FOR JUDGMENT  
AND JUDGMENT:** ZINN J.

**DATED:** December 7, 2010

**APPEARANCES:**

Max Berger FOR THE APPLICANT

Sally Thomas FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

MAX BERGER PROFESSIONAL CORPORATION FOR THE APPLICANT  
Barristers & Solicitors  
Toronto, Ontario

MYLES J. KIRVAN FOR THE RESPONDENT  
Deputy Attorney General of Canada  
Toronto, Ontario