



Date: 20241004

Docket: IMM-11654-23

Citation: 2024 FC 1569

Ottawa, Ontario, October 4, 2024

PRESENT: Madam Justice Azmudeh

BETWEEN:

MELIKA SADEGHIMOTLAGH

Applicant

and

**MINISTER OF IMMIGRATION
AND CITIZENSHIP**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Melika Sadeghimotlagh [the “Applicant”], is seeking a Judicial Review under section 72(1) of the *Immigration and Refugee Protection Act* [IRPA] concerning the rejection of their Study Permit application for Canada. The Judicial Review is granted for the following reasons.

[2] The Applicant is a 21-year-old Iranian citizen who applied for a study permit to attend a 4-year Bachelor of Science program at Toronto's York University Faculty of Health, majoring in Psychology.

[3] The Applicant had provided evidence that both her parents, as well as her brother and sister lived in Iran. There was no evidence to suggest that she had any family in Canada.

[4] In rejecting her study permit application, the Visa Officer ["Officer"] reviewing her file noted the following in the Global Case Management System (GCMS) notes, which constitute the reasons:

I have reviewed the application. I have considered the following factors in my decision. I am not satisfied with the applicant's stated family ties as sufficiently strong (or documented) to warrant a return to Iran. I note that the applicant is single, mobile and has no dependents. Paid tuition receipt provided. However, I have given less weight to the positive factors, for the following reasons : The applicant's study permit application appears vague and poorly documented. The applicant's study plan refers to general advantageous comments regarding the value of international education in Canada and makes sweeping statements on how the education will improve the applicant's situation in Iran. Applicant has not submitted transcripts in order to substantiate academic proficiency; therefore, I am not satisfied client demonstrates the academic proficiency necessary to complete studies in Canada.

No proof of employment / jobb [sic] offer letter provided. Unclear how the proposed studies in Canada would contribute towards PA's career advancements in home country. Weighing the factors in this application, I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

II. Issues and Standard of Review

[5] The only issue before me is whether the decision is reasonable.

[6] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at paras 12-13 and 15 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 8, 63 [*Mason*].

[7] I have started by reading the reasons of the decision-maker in conjunction with the record that was before them holistically and contextually. As guided by *Vavilov*, at paras 83, 84 and 87, as the judge in reviewing court, I have focused on the reasoning process used by the decision-maker. I have not considered whether the decision-maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov*, at para 83; *Canada (Justice) v D.V.*, 2022 FCA 181, at paras 15, 23.

[8] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision-maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33, 61; *Mason*, at paras 8, 59-61, 66. For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention.

III. Legislative Overview

[9] The following sections of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] are relevant:

Application for judicial review

72 (1) Judicial review by the Federal Court with respect to any matter — a decision, determination or order made, a measure taken or a question raised — under this Act is, subject to section 86.1, commenced by making an application for leave to the Court.

Application

(2) The following provisions govern an application under subsection (1):

(a) the application may not be made until any right of appeal that may be provided by this Act is exhausted;

(b) subject to paragraph 169(f), notice of the application shall be served on the other party and the application shall be filed in the Registry of the Federal Court (“the Court”) within 15 days, in the case of a matter arising in Canada, or within 60 days, in the case of a matter arising outside Canada, after the day on which the applicant is notified of or otherwise becomes aware of the matter;

(c) a judge of the Court may, for special reasons, allow an extended time for filing and serving the application or notice;

(d) a judge of the Court shall dispose of the application without delay and in a summary way and, unless a judge of the Court directs otherwise, without personal appearance; and

(e) no appeal lies from the decision of the Court with respect to the application or with respect to an interlocutory judgment.

Demande d'autorisation

72 (1) Le contrôle judiciaire par la Cour fédérale de toute mesure — décision, ordonnance, question ou affaire — prise dans le cadre de la présente loi est, sous réserve de l'article 86.1, subordonné au dépôt d'une demande d'autorisation.

Application

(2) Les dispositions suivantes s'appliquent à la demande d'autorisation :

a) elle ne peut être présentée tant que les voies d'appel ne sont pas épuisées;

b) elle doit être signifiée à l'autre partie puis déposée au greffe de la Cour fédérale — la Cour — dans les quinze ou soixante jours, selon que la mesure attaquée a été rendue au Canada ou non, suivant, sous réserve de l'alinéa 169f), la date où le demandeur en est avisé ou en a eu connaissance;

c) le délai peut toutefois être prorogé, pour motifs valables, par un juge de la Cour;

d) il est statué sur la demande à bref délai et selon la procédure sommaire et, sauf autorisation d'un juge de la Cour, sans comparution en personne;

e) le jugement sur la demande et toute décision interlocutoire ne sont pas susceptibles d'appel.

[10] The following sections of the *Immigration and Refugee Protection Regulations*,

SOR/2002-227 [IRPR] are also relevant:

Study permits

216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

- (a) applied for it in accordance with this Part;
- (b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;
- (c) meets the requirements of this Part;
- (d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and
- (e) has been accepted to undertake a program of study at a designated learning institution.

[...]

Acceptance letter

219 (1) A study permit shall not be issued to a foreign national unless they have written documentation from the designated learning institution where they intend to study that states that they have been accepted to study there.

[...]

Financial resources

220 An officer shall not issue a study permit to a foreign national, other than one described in paragraph 215(1)(d) or (e), unless they have sufficient and available financial resources, without working in Canada, to

Permis d'études

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

- a) l'étranger a demandé un permis d'études conformément à la présente partie;
- b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;
- c) il remplit les exigences prévues à la présente partie;
- d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);
- e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

[...]

Acceptation par l'établissement

219 (1) Le permis d'études ne peut être délivré à l'étranger que si celui-ci produit une attestation écrite de son acceptation émanant de l'établissement d'enseignement désigné où il a l'intention d'étudier.

[...]

Ressources financières

220 À l'exception des personnes visées aux sous-alinéas 215(1)d) ou e), l'agent ne délivre pas de permis d'études à l'étranger à moins que celui-ci ne dispose, sans qu'il lui soit

(a) pay the tuition fees for the course or program of studies that they intend to pursue;

(b) maintain themselves and any family members who are accompanying them during their proposed period of study; and

(c) pay the costs of transporting themselves and the family members referred to in paragraph (b) to and from Canada.

Conditions — study permit holder

220.1 (1) The holder of a study permit in Canada is subject to the following conditions:

(a) they shall enroll at a designated learning institution and remain enrolled at a designated learning institution until they complete their studies; and

(b) they shall actively pursue their course or program of study.

nécessaire d'exercer un emploi au Canada, de ressources financières suffisantes pour :

a) acquitter les frais de scolarité des cours qu'il a l'intention de suivre;

b) subvenir à ses propres besoins et à ceux des membres de sa famille qui l'accompagnent durant ses études;

c) acquitter les frais de transport pour lui-même et les membres de sa famille visés à l'alinéa b) pour venir au Canada et en repartir.

Conditions — titulaire du permis d'études

220.1 (1) Le titulaire d'un permis d'études au Canada est assujéti aux conditions suivantes :

a) il est inscrit dans un établissement d'enseignement désigné et demeure inscrit dans un tel établissement jusqu'à ce qu'il termine ses études;

b) il suit activement un cours ou son programme d'études.

IV. Analysis

A. *Was the Officer's decision reasonable?*

[11] On a study permit application, the Applicant must establish that they meet the requirements of the IRPA and the IRPR. Visa officers have a wide discretion in their assessment of the application and the Court ought to provide considerable deference to an Officer's decision given the level of expertise they bring to these matters. The onus is on the Applicant who seeks

temporary entry to Canada to establish and satisfy a visa officer that they will leave Canada at the end of the authorized period of stay requested.

[12] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions and the narrow consequences of a refusal are such that extensive reasons are not required: *Vavilov* at paras 88, 91; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at paras 9, 16 [*Yuzer*]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19–20. Nonetheless, the reasons given by the Officer must, when read in the context of the record, adequately explain and justify why the application was refused: *Yuzer* at paras 9, 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 at para 35 [*Hashemi*]; *Vavilov* at paras 86, 93–98.

V. Family Ties

[13] Visa officers “must assess the strength of the ties that bind or pull the Applicant to their home country against the incentives, economic and otherwise, that might induce the foreign national to overstay”: *Hashemi* at para 19; *Rivaz v Canada (MCI)*, 2023 FC 198 at para 21-22; *Ali v Canada (MCI)*, 2023 FC 608 at paras 9-11; *Zeinali v Canada (Citizenship and Immigration)*, 2022 FC 1539 [*Zeinali*] at para 20; *Hassanpour v Canada (Citizenship and Immigration)*, 2022 FC 1738 at para 19; *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 16-18; *Hassani v Canada (Citizenship and Immigration)*, 2023 FC 734 at para 20; *Chhetri v Canada (Citizenship and Immigration)*, 2011 FC 872 at para 14.

[14] In this particular case, the Applicant is a 21-year old woman who proposes to come to Canada by herself leaving the rest of her family, including parents and siblings behind in Iran. The Officer cites being “single, mobile and no dependent” as factors that reduce her family ties to Iran.

[15] The evidence in the record directly contradicts the Officer’s conclusion on family ties. There was contrary evidence on the family ties that the Officer did not analyse, including that no family member would accompany the Applicant to Canada and that her entire family, including parents and siblings, continued to live in Iran. In her study plan, she also stated that she was “strongly attached” to her family. By not engaging with the contrary evidence in any way, the Officer made an arbitrary decision (*Seyedsalehi v Canada (Citizenship and Immigration)*, 2022 FC 1250).

[16] Further, if the Officer expects a 21-year old woman with clear professional ambitions to have dependents, they should provide some rational basis for those expectations. The Officer’s conclusion that the Applicant’s family ties are not sufficiently strong to warrant a return to Iran, is vague and unfounded, amounting to a significant and reviewable error (*Rahmati v Canada (Citizenship and Immigration)*, 2021 FC 778 at para 18). Further, even if the Applicant did have strong family ties in Canada, which she does not, this, in and of itself, should not warrant a refusal (*Bteich v Canada (Citizenship and Immigration)*, 2019 FC 1230 at para 34).

VI. Study Plan

[17] The Officer also referred to the study plan as vague. At the outset of her statement, the Applicant stated that a previous study permit application was refused, and that in her statement,

she was responding to the concerns raised in the refusal. These included the purpose of her visit and financial issues. With respect to the purpose of the visit the Applicant explained her attachment to her family, the cultural expectation that she lives with them as long as she was single (but that they supported her studies) and her intention to return to Iran. She also stated that with the disadvantages women faced in the workplace in Iran, an international degree would offer her a competitive advantage. The Applicant wrote on the need for her home country to have specialists that can foster and implement change, and her desire to give back to the community.

[18] The Applicant included acceptance from an accredited public university, York and her TOEFL (English language testing) score. In this context, one would reasonably expect to see a rationale for why the Officer thought the Iranian transcripts were relevant/determinative, or what additional details a young applicant to a four-year undergraduate program is expected to provide. In other words, if the study plan's vagueness was determinative to the Officer, one would expect to see a chain of reasoning to explain, even if briefly, what made it vague. The lack of analysis makes the decision arbitrary, devoid of a rational chain of reasoning.

VII. Conclusion

[19] The Officer's decision is unreasonable, as it does not exhibit the requisite degree of justification, intelligibility, and transparency. The application for judicial review is granted and the decision set aside.

[20] Neither party proposed a question for certification and I agree that none arises in this matter.

JUDGMENT IN IMM-11654-23**THIS COURT'S JUDGMENT is that**

1. The Judicial Review is granted. The matter is remitted for redetermination by a different Officer.

"Negar Azmudeh"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-11654-23

STYLE OF CAUSE: MELIKA SADEGHIMOTLAGH v MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 2, 2024

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

DATED: OCTOBER 4, 2024

APPEARANCES:

Rajender Singh FOR THE APPLICANT

Antonietta F. Raviele FOR THE RESPONDENT

SOLICITORS OF RECORD:

RST Professional Corporation FOR THE APPLICANT
Mississauga, ON

Department of Justice Canada FOR THE RESPONDENT
Toronto, ON