

Federal Court



Cour fédérale

**Date: 20231127**

**Docket: IMM-9300-22**

**Citation: 2023 FC 1581**

**Ottawa, Ontario, November 27, 2023**

**PRESENT: The Honourable Justice Fuhrer**

**BETWEEN:**

**Neda Aghaei Khorasgani**

**Applicant**

**and**

**The Minister of Immigration Refugees and  
Citizenship Canada**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Neda Aghaei Khorasgani, is a citizen of Iran. A visa officer [Officer] denied her study permit application on the bases that she does not have significant family ties outside Canada and that the purpose of her visit is inconsistent with a temporary stay [Decision]. Raising issues of reasonableness and procedural unfairness, the Applicant seeks judicial review of the Decision.

[2] A reasonable decision is one that exhibits the hallmarks of justification, transparency and intelligibility, and is justified in the context of the applicable factual and legal constraints:

*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 99.

The party challenging an administrative decision has the burden of showing that it is unreasonable: *Vavilov*, above at para 100.

[3] Questions of procedural fairness attract a correctness like standard of review: *Benchery v*

*Canada (Citizenship and Immigration)*, 2020 FC 217 at paras 8-9; *Canadian Pacific Railway*

*Company v Canada (Attorney General)*, 2018 FCA 69 at para 54; *Vavilov*, above at para 77. The

focus of the reviewing court is whether the process was fair in the circumstances: *Chaudhry v*

*Canada (Citizenship and Immigration)*, 2019 FC 520 at para 24.

[4] For the reasons below, I find that the Applicant has met her onus of demonstrating that the Decision was unreasonable; the judicial review is therefore granted. I further find, however, that the Applicant has not demonstrated any procedural unfairness. I note that although no formal Notice of Change of Solicitor or Notice of Intention to Act in Person was filed, the Applicant chose to self-represent at the hearing of this matter.

## II. Analysis

### A. *The Decision was not procedurally unfair*

[5] I find that no procedural unfairness arises by reason of the Officer's use of the Chinook 3+ tool in connection with the processing of the study permit application. On this point, the Applicant's submissions are vague and speculative.

[6] I am not persuaded that the use of the Chinook 3+ tool in assessing an application, in itself, results in a breach of procedural fairness or unreasonableness: *Haghshenas v Canada (Citizenship and Immigration)*, 2023 FC 464 at paras 24, 28; *Ardestani v Canada (Citizenship and Immigration)*, 2023 FC 874 at para 34. Where the evidence shows that an officer made a decision, as opposed to artificial intelligence or AI, the focus is on the decision and the reasons where required or supplied, as the Supreme Court guides in *Vavilov*, above.

[7] Contrary to the Applicant's submission, I also disagree that the Officer was required to send a procedural fairness letter to permit the Applicant to respond to the Officer's concerns with the study permit application.

[8] Study permit applications tend to attract a low level of procedural fairness. Visa officers generally are not required to inform study permit applicants of doubts regarding the sufficiency of their applications, including concerns about supporting documentation: *Zeinali v Canada (Citizenship and Immigration)*, 2022 FC 1539 at para 24.

[9] Applicants have the responsibility to provide a complete application and to satisfy the officer that they meet the statutory requirements: *Ilaka v Canada (Citizenship and Immigration)*,

2022 FC 1622 at paras 18-19; *Sayyar v Canada (Citizenship and Immigration)*, 2023 FC 494 at para 8; *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 2.

[10] As a consequence, the Applicant should have had no expectation that the Officer would notify her of the deficiencies in her record or give her a chance to respond to the Officer's concerns: *Asagba v Canada (Citizenship and Immigration)*, 2022 FC 1528 at para 31.

B. *The Decision was unreasonable*

[11] I am persuaded, however, that the Applicant has shown the Decision was unreasonable in several respects.

[12] First, the Officer found that the Applicant has insufficient ties to Iran simply because she is unmarried, mobile, and has no dependents. The Officer did not refer to the Applicant's evidence of family and economic ties, and did not recognize that she has no ties in Canada.

[13] Recent jurisprudence of the Court has emphasized consistently that it is unreasonable to find an applicant insufficiently established in their home country without addressing contradictory evidence of family, economic, or other relevant ties to the home country: *Khansari v Canada (Citizenship and Immigration)*, 2023 FC 17 at paras 17-18; *Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at para 19; *Noriega v Canada (Citizenship and Immigration)*, 2023 FC 460 at paras 27-30; *Asghari v Canada (Citizenship and Immigration)*, 2023 FC 606 at para 17.

[14] Further, while it is not necessarily an error for an officer to note that an applicant is single, mobile, not well established and has no dependents, these factors cannot serve as a standalone reason to deny a study permit, without analysis as to why these are negative factors: *Hassanpour v Canada (Citizenship and Immigration)*, 2022 FC 1738 at para 20.

[15] Second, the Officer found that the proposed studies did not make sense in light of the Applicant's work and education background. While I find the Applicant's submissions are overstated regarding the existence of an offer of a promotion upon completion of the intended studies in Canada, the Officer inappropriately took on a "career counselling" role, in my view: *Ali v Canada (Citizenship and Immigration)*, 2023 FC 608 at para 13.

[16] Stated simply, the Officer's conclusion is contradicted by the record. The Applicant does not have a degree in aviation safety, despite working as a lower-level employee in that field. She has only a licence in repairs and maintenance that was obtained several years ago. The Applicant described that she wanted to advance her career in the aviation safety field, and a degree in aviation safety would help with this. Further, she spoke about the presence of the International Civil Aviation Organization, with its permanent headquarters in Canada, as a reason for wishing to study here.

### III. Conclusion

[17] For the above reasons, I conclude that the judicial review application will be granted. The Decision will be set aside, with the matter remitted to a different decision maker for reconsideration.

[18] Neither party proposed a question for certification, and I agree that none arises in the circumstances.

**JUDGMENT in IMM-9300-22**

**THIS COURT'S JUDGMENT is that:**

1. The Applicant's judicial review application is granted.
2. The August 9, 2022 decision of the visa officer refusing the Applicant's application for a study permit is set aside.
3. The matter will be remitted to a different decision maker for reconsideration.
4. There is no question for certification.

"Janet M. Fuhrer"

---

Judge

**Annex “A”: Relevant Provisions**

***Immigration and Refugee Protection Regulations, SOR/2002-227***  
***Règlement sur l’immigration et la protection des réfugiés, (DORS/2002-227)***

<p><b>Issuance of Study Permits</b></p> <p><b>Study permits</b></p> <p><b>216 (1)</b> 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</p> <p>(a) applied for it in accordance with this Part;</p> <p>(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;</p> <p>(c) meets the requirements of this Part;</p> <p>(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</p> <p>(e) has been accepted to undertake a program of study at a designated learning institution.</p>	<p><b>Délivrance du permis d’études</b></p> <p><b>Permis d’études</b></p> <p><b>216 (1)</b> 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 :</p> <p>a) l’étranger a demandé un permis d’études conformément à la présente partie;</p> <p>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;</p> <p>c) il remplit les exigences prévues à la présente partie;</p> <p>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);</p> <p>e) il a été admis à un programme d’études par un établissement d’enseignement désigné.</p>
--	--



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

**DOCKET:** IMM-9300-22

**STYLE OF CAUSE:** NEDA AGHAEI KHORASGANI v THE MINISTER OF  
IMMIGRATION REFUGEES AND CITIZENSHIP  
CANADA

**PLACE OF HEARING:** HELD VIA VIDEOCONFERENCE

**DATE OF HEARING:** OCTOBER 19, 2023

**JUDGMENT AND REASONS:** FUHRER J.

**DATED:** NOVEMBER 27, 2023

**APPEARANCES:**

Neda Aghaei Khorasgani

FOR THE APPLICANT  
(ON THEIR OWN BEHALF)

Kareena Wilding

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Shirin Taghavikhansari  
Barrister and Solicitor  
Richmond Hill, Ontario

FOR THE APPLICANT

Attorney General of Canada  
Toronto, Ontario

FOR THE RESPONDENT