Federal Court  Cour fédérale

Date: 20240625

Docket: IMM-2112-23

Citation: 2024 FC 987

Ottawa, Ontario, June 25, 2024

PRESENT: The Honourable Madam Justice Blackhawk

BETWEEN:

ELMIRA HENDABADI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Hendabadi, seeks to set aside a decision dated February 6, 2023, by an officer (Officer) with Immigration, Refugees and Citizenship Canada (IRCC) refusing the Applicant's application for a study permit pursuant to section 216(1) of the *Immigration and Refugee Protection Regulations*, SOR 2002/227 [*IRPR*] (the Decision).

[2] The Applicant asks this Court to set the Decision aside and send the matter back for redetermination by a different officer because the decision is unreasonable and procedurally unfair.

[3] For the reasons that follow, this application is denied.

II. Background

[4] The Applicant is a 33-year old citizen of Iran.

[5] The Applicant has a Bachelor's Degree in Law from the Islamic Azad University – South Tehran Branch and a Master's Degree in Criminal Law and Criminology from the Islamic Azad University – Science and Research Tehran Branch. The Applicant is self-employed as a Legal Advisor and works as the Legal and Financial Supervisor at Kish Electronic Travel Company (eSafar).

[6] The Decision indicates that the Officer found that the documentation provided in support of the Applicant's application did not demonstrate that she had sufficient funds for the intended studies in Canada. Further, the Officer found that the Applicant's study plan was not reasonable in light of her employment and education history.

[7] In the Global Case Management System (GCMS) notes, which form part of the reasons, the Officer states:

> I have reviewed the application. I have considered the following factors in my decision. Taking the applicant's plan of studies into account, the documentation provided in support of the applicant's financial situation does not demonstrate that the funds would be sufficient or available. Bank statements provided did not include banking transactions to demonstrate the history of funds accumulation and the availability of these funds. In the absence of

> satisfactory documentation showing the source and availability of these funds, I am not satisfied the applicant has sufficient funds for the intended studies in Canada. Evidence of available funds associated with assets such as a vehicle, rental properties, or potential income, have not been included in the calculation of available funds. The applicant's study plan does not appear reasonable given the applicant's employment and education history: -The applicant has studies at the same academic level as the proposed studies in Canada and in an unrelated field. I note that the applicant obtained a master's degree in criminal law and criminology and a bachelor's degree of law. Applicant is currently employed as legal advisor. In light of the applicant's previous studies and current career, the intended program of study appears to demonstrate an inconsistent career progression.\ I note that the applicant's employment letter does not mention a need for international studies to secure employment or promotion. 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.

[8] The Applicant commenced this application for leave and judicial review of the Decision on February 13, 2023. This Court granted leave for judicial review on March 21, 2024.

III. Position of the Parties

[9] The Applicant asserted that the Officer ignored or misunderstood evidence of her financial means to pay for the planned course of study in Canada. Specifically, the Applicant pointed to evidence of funds in her accounts, pre-paid tuition amounts, financial aid she will receive, and evidence of other assets including rental income from property in Iran and family support. In view of this evidence, the Applicant argued that the Decision was not reasonable.

[10] The Applicant asserted that the Officer's finding on the utility of her planned course of study was not reasonable, as the Officer found that her previous studies and employment history were inconsistent with the plan of study to obtain an MBA.

[11] The Applicant asserted that the Officer ignored evidence of her significant ties to Iran, arguing that the finding that she will not depart Canada at the end of her studies was unreasonable.

[12] Finally, the Applicant asserted that the Officer breached her right to procedural fairness by not providing her with an opportunity to respond to the concerns or deficiencies in her application. In addition, that the Officer failed to consider contradictory evidence.

[13] The Respondent argued that the Decision was reasonable. The Officer was entitled to review the source, nature, and stability of the Applicant's financial means to engage in the proposed course of study. The Applicant has the burden to provide sufficient evidence to support their application. The evidence did not satisfy the requirements set out at section 220 of the *IRPR*. Therefore, the Officer correctly denied the application.

[14] The Respondent argued that the Officer's reasons were entitled to deference. Here the application does not sufficiently highlight why the proposed plan of study was required. Rather, the Applicant sets out some general assertions, but no specific information concerning the benefits of the proposed program.

IV. Issues and standard of review

[15] This application raises the following two issues:

A. Was the Officer's decision to deny the Applicant's study permit unreasonable?
B. Did the Officer breach the Applicant's right to procedural fairness in their review of the study permit application?

V. Analysis

A. *Was the Officer's decision deny the Applicant's study permit unreasonable?*

(1) Standard of Review

[16] The parties submitted, and I agree, that that standard of review applicable to a visa officer's refusal of a study permit is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 23).

[17] Reasonableness review is a deferential standard, and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, and 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, a reasonable decision is "one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law" (*Vavilov* at para 85).

[18] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant, which renders the decision unreasonable (*Vavilov* at para 100).

[19] Officers are not required to respond to every argument or piece of evidence advanced in an application or make an explicit finding on each element; however, the reasons must demonstrate that the officer "meaningfully grapple[d]" with key issues or central arguments raised (*Vavilov* at para 128). This Court has noted that due to the significant pressure on visa officers to review a large volume of applications on a daily basis, officers are not able to provide "extensive reasons" for every matter (*Patel v Canada (Citizenship and Immigration)*, 2020 FC

77 [*Patel*]). Accordingly, this Court has found that brief decisions are reasonable if they are responsive to the evidence (*Patel* at para 15). In other words, an officer's reasons "may be concise and simple so long they are responsive to the evidence" (*Ibekwe v Canada (Citizenship and Immigration)*, 2022 FC 728 at para 28, citing *Patel* at para 17).

[20] An applicant for a study permit must establish that they satisfy the requirements of the *Immigration and Refugee Protection Act*, SC 2001, c 27 and the *IRPR*.

[21] Section 216 of the *IRPR* sets out that an officer shall issue a study permit to a foreign national if, following an examination, certain criteria are satisfied. The onus is on the applicant to satisfy the officer that they will not remain in Canada following the expiration of their visa (*Solopova v Canada (Minister of Citizenship and Immigration)*, 2016 FC 690 at para 10; *Nourani v Canada (Citizenship and Immigration)*, 2023 FC 732 at para 14).

(2) Stability of finances

[22] Section 220 of the *IRPR* provides that an officer shall not issue a study permit unless it is established that the applicant has sufficient and available financial resources, without working in Canada, to: pay tuition and fees; maintain themselves and accompanying family members; and pay the costs of transport for themselves and accompanying family members to and from Canada (*Ohuaregbe v Canada (Citizenship and Immigration)*, 2023 FC 480 at para 23 [*Ohuaregbe*] citing *Adekoya v Canada (Citizenship and Immigration)*, 2016 FC 1234 at para 9).

[23] Officers may require proof of sufficient funds for the entirety of an academic program, and pursuant to the *IRPR* they "must be satisfied as to the source, nature and stability of those funds, as well as to determine the likelihood of future income and the ability to pay for

subsequent years of education and living expenses" (*Sani v Canada (Citizenship and Immigration)*, 2024 FC 396 at paras 13–32. See also *Sayyar v Canada (Citizenship and Immigration)*, 2023 FC 494 at para 12 [*Sayyar*]).

[24] Where an applicant does not meet the requirements set out in section 220 of the *IRPR*, the officer has no discretion and must deny the application for a study permit (*Ohuaregbe* at para 23).

[25] Further, in *Sayyar*, this Court noted that the operational bulletin that provides guidance on study permits notes that visa officers "should be satisfied however that the probability of funding for future years does exist." In other words, officers may consider financial means beyond the first year of planned studies. An officer's investigation into an applicant's financial means is a detailed and complete investigation into the nature, source, and stability of the funds, to ensure that an applicant satisfies the section 220 *IRPR* requirements (*Sayyar* at para 12).

[26] In the case at bar, the Officer found that the documentation provided in support of the Applicant's application "does not demonstrate that the funds would be sufficient or available," and that the application does not include "satisfactory documentation showing the source and availability of these funds."

[27] The onus is on an applicant to ensure that there is sufficient information before the visa officer to assess their application. Visa officers are not required to further investigate or provide an opportunity for applicants to clarify their application or provide additional information to supplement their application (*Ohuaregbe* at paras 31–33).

[28] The Decision is reasonable. The Officer considered the evidence set out in the application and found that the Applicant failed to satisfy the requirements set out at section 220 of the *IRPR*, namely to demonstrate sufficient funds to pay for the planned course of study in Canada.

[29] This issue alone is dispositive of the application for judicial review. The Officer, having found that the evidence did not satisfy the financial requirements under section 220 of the *IRPR*, did not have discretion to grant the study permit.

B. *Did the Officer breach the Applicant's right to procedural fairness?*

[30] The Applicant asserted a number of breaches of procedural fairness in her Memorandum of Argument. This Court has considered these arguments recently in a number of other matters. In *Amirhesari v Canada (Citizenship and Immigration)*, 2024 FC 436, Justice Ahmed noted:

> [6] Counsel for the Applicant raises many procedural fairness arguments in his written submissions. He did not pursue them at the hearing. This Court has encountered these arguments from counsel for the Applicant many times before. I have rejected them (*Amiri v Canada (Citizenship and Immigration)*, 2023 FC 1532 at paras 23-26). My colleagues have routinely rejected them *(Rajabi v Canada (Citizenship and Immigration)*, 2024 FC 371 ("*Rajabi*") at paras 21-27; *Eslami v Canada (Citizenship and Immigration)*, 2024 FC 409 at paras 19-21; *Davoodabadi v Canada (Citizenship and Immigration)*, 2024 FC 85 at paras 17-20; *Soofiani v Canada (Citizenship and Immigration)*, 2023 FC 1732 at para 3; *Zarei v Canada (Citizenship and Immigration)*, 2023 FC 1475 at para 12; *Mehrjoo v Canada (Citizenship and Immigration)*, 2023 FC 886 at para 16-17). As recently as last week, my colleague Justice Strickland spoke of the "standard form or largely generic" nature of these submissions (*Rajabi* at para 21).

[31] These arguments were not relied upon in oral argument. As noted previously, the Court has spent a considerable amount of time and resources deliberating on arguments that were not advanced in oral argument in the case at bar. These arguments are without merit.

VI. Conclusion

[32] In light of the foregoing, this application for judicial review is denied.

[33] The parties did not pose any questions for certification, and I agree there are none.

JUDGMENT in IMM-2112-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is denied.

2. No question is certified.

"Julie Blackhawk"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

Oluwadamilola Asuni	FOR THE APPLICANT
Justin Zelowski	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Oluwadamilola Asuni Barrister and Solicitor Saskatoon, Saskatchewan	FOR THE APPLICANT
Attorney General of Canada Saskatoon, Saskatchewan	FOR THE RESPONDENT