

Federal Court



Cour fédérale

Date: 20250919

Docket: IMM-8254-24

Citation: 2025 FC 1540

Ottawa, Ontario, September 19, 2025

PRESENT: Madam Justice McDonald

BETWEEN:

**HAMIDREZA GHARIBDOUST
AVA REZVANI,
KIANA GHARIBDOUST AND
KOUROSH GHARIBDOUST**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Hamidreza Gharibdoust, is a citizen of Iran, who seeks judicial review of the decision of the Officer who refused his application for a work permit through the International Mobility Program, as an Intra-company Transferee (ICT) under ss 205(a) of the

Immigration and Refugee Protection Regulations, SOR/2002-227 [*IRPR*]. His wife and children sought temporary residence permits dependent on Mr. Gharibdoust's work permit application.

[2] The Officer was not satisfied that the proposed work would create or maintain significant social, cultural, or economic benefits or opportunities for Canadian citizens or permanent residents (ss 205(a) of *IRPR*).

[3] For the reasons that follow, this judicial review is dismissed as I have determined that the Officer's decision is reasonable.

I. Background

[4] Mr. Gharibdoust is the majority shareholder, Board Member, and Executive Director of an Iranian corporation, Sazeh Paytakht Nirovana Technical Company (SPNTC).

Mr. Gharibdoust applied for a work permit to work with Nirovana Consulting Inc (Canadian Branch), a wholly owed subsidiary of SPNTC incorporated in Ontario. Mr. Gharibdoust sought to transfer to the Canadian Branch as the Executive Director.

[5] The Business Plan filed in support of the application states that the Canadian Branch would offer interior design services "inspired by Middle Eastern and Persian aesthetics" to "homeowners, architectural and construction firms, contractors, and real estate developers...in Richmond Hill and its nearby cities and towns".

[6] The application was made on the basis that the ICT would provide a “significant benefit” to Canada, pursuant to ss 205(a) of the *IRPR*. Mr. Gharibdoust’s application was made under administrative code “C-61”, which is used to subclassify applicants who are applying to work at a “Start-up Business”. Immigration, Refugees, and Citizenship Canada (IRCC) has issued an Operational Manual on “Intra-company transferees” that provides guidance for officers assessing applicants under code C-61.

II. Issue and standard of review

[7] The Applicant challenges the Officer’s decision on a number of grounds, all of which are reviewable on the reasonableness standard (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17).

III. Analysis

A. *Was the application assessed under ss 205(a)?*

[8] The Applicant notes that the Officer, in the first line of the Global Case Management System (GCMS), references ss 205(c) rather than ss 205(a) being the provision he applied under. The Applicant argues that this suggests that the Officer assessed his application under the wrong legal framework.

[9] In my view, there is no merit to this submission. The Rejection Letter and GCMS notes demonstrate that the Officer assessed the application under ss 205(a): the Officer cites the ss 205(a) eligibility requirements from the Operational Manual; the Rejection Letter states that

the rejection was based on ss 205(a); the Officer categorizes the Applicant under C-61, which is applicable to ss 205(a) but not ss 205(c); and, the Officer analyzed the application using C-61 criteria from the Operational Manual.

[10] In any event, the Applicant's application would be outside the purview of ss 205(c), which is concerned with labour for research programs at academic institutions.

[11] The reference to ss 205(c) is a typographical error, as the Officer clearly considered the application under ss 205(a). On a reasonableness review, the Court is to read the Officer's reasons as "an organic whole, without a line-by-line treasure hunt for an error" (*Vavilov* at para 102, citing *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54). One incorrect reference to a provision, when the Officer otherwise references and applies the proper provision, does not render the decision unreasonable. As noted in *Vavilov*, "[a]ny alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision" (*Vavilov* at para 100).

B. *Interior design experience*

[12] The Applicant challenges the Officer's finding that Mr. Gharibdoust did not have "any experience in the field of interior design". The Officer states:

Applicant has earned an Associate's degree in Civil Engineering - Water and Wastewater, specializing in Wastewater Network and Treatment Plant as well as a Bachelor's degree in Civil Engineering Technology - Building Construction. Pages 34-38 of the business plan list a number of projects, carried out by the parent company, led by the applicant. It is noted that the projects

are primarily construction-related, with some road work. Submissions do not demonstrate that applicant has any experience in the field of Interior Design - experience that is most likely to improve the viability of the business.

[13] The Applicant argues the Officer's conclusion that Mr. Gharibdoust has not demonstrated "any" experience in interior design contradicts the evidence and is therefore unreasonable. The Applicant references various documents in the record to demonstrate that he has experience with interior design, including photos of completed projects that clearly have interior design features.

[14] In considering the application, the Officer explicitly noted Mr. Gharibdoust's education and parts of the Business Plan that are unrelated to interior design. This is a fair assessment of the application. The photographs and information that the Applicant points to on this judicial review do not specify what work was specifically done by the Applicant. Design teams and architects are referenced but there is no indication that the Applicant contributed to the interior design. Furthermore, the list of projects and the contracts provide minimal detail regarding what work was done by the Applicant. These documents do not establish that the Applicant or SPNTC conducted the interior design of these projects.

[15] Overall, the Officer analyzed the evidence and found it unsatisfactory. The Officer is presumed to have weighed the evidence before them and does not need to mention every piece of evidence filed by the Applicant (*D'Almeida v Canada (Citizenship and Immigration)*, 2019 FC 308 at para 42).

[16] While Mr. Gharibdoust may have interior design experience given his involvement in various projects, the role of the Officer is to assess the information provided in the context of the work permit sought. The burden was on the Applicant to highlight his interior design experience in support of his application. Based upon my review of the information before the Officer, that work is not highlighted. The Officer would have to have made inferences or assumptions to accept that the Applicant has interior design experience. The Officer cannot be faulted for not doing so and it was reasonable for the Officer to find that the Applicant's projects were primarily construction-related, with some road work.

C. *Employer-employee relationship*

[17] The Applicant argues that the Officer's finding, that there was not a "qualifying" employer-employee relationship between the Applicant and SPNTC, was unreasonable.

[18] The Officer's analysis on this point is:

Qualifying relationship - While submissions indicate the applicant is one of the owners of the parent company, it has not been clearly demonstrated that an employer/employee relationship exists between he and the parent company. Program guidance states the following - "Must take a position in Canada" under intra-company transferee provisions means that an employer-employee relationship with the Canadian branch of the company to which they are being transferred must exist. The essential element in determining this relationship is the right of the employer to order and control the employee in the performance of their work. A letter dated 20 MAR 2024 from the parent company (signed by the applicant) states that applicant has been Managing Director and Chairperson since Aug 2008 and receives a salary of IRR 3,600,000,000 is provided. However, I note that submissions do not include proof in the form of an existing or previous contract between the applicant and parent company. Additionally, it is not

demonstrated that the applicant currently, or has previously received, a regular salary from the parent company. Applicant's bank statement does not provided [sic] any clear indication of regular salary deposits. I am not satisfied that submissions demonstrate a qualifying relationship between the employer and the foreign worker.

[19] To demonstrate an employment relationship, the Applicant relies upon a notice in the Official Gazette of the Islamic Republic of Iran, announcing Mr. Gharibdoust's election as Managing director and Chairperson. In my view this is insufficient evidence to demonstrate an employer-employee relationship. Further, the qualifying criteria requires the Officer to consider the ability of the Canadian Branch to control the employee in the performance of their day-to-day activity. The information in the form of the Official Gazette posting does not provide information on whether, or to what degree, the employer has control over the employee's day-to-day activity. The Officer was not satisfied this evidence showed such a relationship, which was a reasonable conclusion.

D. *Corporate finances*

[20] The Applicant argues that it was unreasonable for the Officer to find that the financial information provided did not demonstrate that SPNTC could afford to commence and operate the Canadian Branch. The Officer's comments from the GCMS notes are:

Finances - Operating costs are calculated at \$375,333 for the first year of business. It is noted that page 73 of the business plan also indicates the cost of needed equipment calculated at \$70,900. This would bring the total costs for the first year to \$446,233. Business plan notes that \$447,446 will be invested into the Canadian start-up and applicant has provided a personal account balance statement from Tejarat Bank indicating an available balance of

IRR 142,192,279,590 (equivalent to approximately CAD \$447,446.65). As the applicant is seeking a work permit as an Intra-company Transferee, it is unclear why the [sic] would use his personal funds to finance the business in Canada. If the applicant intends to use his personal funds, this is an unreasonable expense. Financial information, of any kind, for the parent company (such as bank statements, audit reports, tax statements) is not provided. Note: Submissions have included title deeds held by the applicant and his spouse, however they have not been considered as they are not representative of liquid/available funds. I am not satisfied that submissions demonstrate that the parent company has the financial ability to commence business in Canada, compensate employees and continue to support the Canadian start-up.

[21] The Applicant argues that it was reasonable to provide his personal bank statement, as he and his wife are the sole shareholders of SPNTC and they intend to use their personal funds to operate the Canadian Branch.

[22] One of the requirements in the Operational Manual is that “[t]he company must have the financial ability to commence business in Canada and compensate employees” [emphasis added.] (see Operational Manual under “Employees entering Canada to establish a qualifying enterprise”).

[23] In my view, the Officer’s application of the Manual was reasonable as the direction is that the company have sufficient financial ability to fund the start-up and operation of the Canadian enterprise. Mr. Gharibdoust and SPNTC are separate legal entities, and therefore his personal bank statement does not meet the requirements of the Operational Manual. The Applicant’s submissions fail to acknowledge the differences between personal and corporate funds and the clear requirements of the Operational Manual.

[24] Corporate financial documentation is required by the Operational Manual and the Applicant failed to provide such documentation. As such, there was no evidence before the Officer that SPNTC had sufficient funds to commence and operate business in Canada. The personal financial evidence relied upon by the Applicant is not corporate financial information necessary to support an ICT of an employee.

[25] The Officer's conclusions on this point are reasonable in the absence of any corporate financial documentation.

IV. Conclusion

[26] Overall, the IRCC's decision is reasonable, and I am dismissing this judicial review. There is no question for certification.

JUDGMENT IN IMM-8254-24

THIS COURT'S JUDGMENT is that:

1. This judicial review is dismissed.
2. There is no question for certification.

"Ann Marie McDonald"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-8254-24

STYLE OF CAUSE: GHARIBDOUST V THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 9, 2025

JUDGMENT AND REASONS: MCDONALD J.

DATED: SEPTEMBER 19, 2025

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