

Federal Court of Appeal



Cour d'appel fédérale

Date: 20210511

Docket: A-112-20

Citation: 2021 FCA 246

[ENGLISH TRANSLATION]

Ottawa, Ontario, May 11, 2021

**CORAM: NADON J.A.  
STRATAS J.A.  
RIVOALEN J.A.**

**BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Appellant**

**and**

**EZEXUEL SAINT PAUL**

**Respondent**

**ORDER**

**WHEREAS**, as of March 19, 2019, the Refugee Appeal Division (RAD) has denied the Respondent's claim for asylum in Canada;

**WHEREAS** in its decision in *Saint Paul v. Canada*, 2020 FC 493, dated April 7, 2020, the Federal Court found the RAD's decision of March 19, 2019, to be unreasonable and therefore allowed the respondent's application for judicial review;

**WHEREAS** on May 5, 2020, the appellant filed a notice of appeal from the Federal Court's decision;

**WHEREAS** the motion submitted by the appellant on April 13, 2021, for a judgment based on an agreement between the parties, has been accepted for filing;

**WHEREAS** the respondent consents to the appellant's motion;

**WHEREAS** in concluding as it did, the Federal Court certified the following question: "If the decision maker concludes that the claimant, a citizen of one country, has residence status in another country and that this status confers rights similar to those of citizens of that country (an affirmative answer to the first part of the *Zeng* test), should the decision maker take into account the fear or risk raised by the refugee protection claimant in respect of their country of residence before excluding the claimant by the combined effect of Article 1E of the *United Nations Convention Relating to the Status of Refugees* and section 98 of the *Immigration and Refugee Protection Act*?";

**WHEREAS** the parties agree that the certified question should be answered in the affirmative;

**WHEREAS**, moreover, the parties agree that the RAD's decision was reasonable;

**WHEREAS** the Federal Court found the RAD’s decision to be unreasonable despite its conclusion that the outcome of that decision, the rejection of the respondent’s refugee protection claim, “[could] be considered reasonable” (Reasons, para. 60); and

**WHEREAS** even though this appeal raises a serious question of general importance on how to interpret Article 1E of the *United Nations Convention Relating to the Status of Refugees*, in light of the above, there is no need for this Court to continue its review of this case in order to make a decision;

**THE COURT ORDERS that:**

The appellant’s motion be allowed. Consequently, the appeal is allowed, and the Federal Court’s decision (2020 FC 493) is set aside. Rendering the judgment that should have been made, the Court dismisses the respondent’s application for judicial review, without costs.

In the circumstances, the Court will not answer the certified question.

“M. Nadon”

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J.A.

“DS”

“MR”

Certified true translation

Michael Palles