

Federal Court



Cour fédérale

Date: 20250102

Docket: IMM-15365-23

Citation: 2025 FC 10

Ottawa, Ontario, January 2, 2025

PRESENT: Madam Justice Pallotta

BETWEEN:

DONALDO MALASI

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Donaldo Malasi asks this Court to set aside a visa officer's (Officer) decision that denied his application for a temporary resident visa (TRV).

[2] Mr. Malasi is a citizen of Albania who applied for a TRV to travel to Canada for one month, to visit his brother and his brother's family. The Officer was not satisfied that Mr. Malasi would leave Canada at the end of his authorized stay as required by subsection 179(b) of the

Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR], and refused the application on this basis. The Officer's concerns were that Mr. Malasi provided insufficient details about his assets and funds, and his emotional ties to Albania are weak.

[3] Mr. Malasi submits that the Officer's decision was unreasonable according to the principles set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov]. Mr. Malasi states the Officer's reasoning was overly speculative, and the Officer's findings misconstrue and ignore evidence.

[4] First, Mr. Malasi argues the Officer ignored or misapprehended critical financial information and evidence and failed to explain why his assets were insufficient to support an application to come to Canada for one month. He states the Officer discredited evidence that he owns his residence and has owned and operated his own business since 2018, on the basis that he did not submit a detailed bank statement showing transactions. Mr. Malasi also notes that the application included a financial statement for his brother's business, showing significant gross revenue.

[5] I am not persuaded by this first argument.

[6] The financial statement from the brother's business was not relevant since the application stated that Mr. Malasi, not his brother, would fund the trip.

[7] As the respondent correctly points out, the document checklist for TRV applicants from Albania requires applicants to provide three months of banking transaction history to demonstrate they can cover the expense of the trip. The Officer specifically noted that Mr. Malasi did not provide detailed bank statements. An officer may reasonably conclude that an applicant has failed to establish a financial situation sufficient to support the stated purpose of travel if they have failed to provide documentation specifically identified in the checklist, or an explanation for not doing so: *Bawa v Canada (Citizenship and Immigration)*, 2024 FC 1605 at para 9; also see *Koulaji v Canada (Citizenship and Immigration)*, 2024 FC 1044 at para 4 and *Kaleka v Canada (Citizenship and Immigration)*, 2024 FC 1457 at paras 27-28.

[8] Second, Mr. Malasi argues the Officer's findings regarding ties to Albania are also unreasonable. He states the Officer incorrectly found that he "does not have apparent ties to Albania" when he has lived in Albania his entire life, owns his residence where his parents reside with him, and has owned and operated his own business since 2018. Mr. Malasi contends the Officer ignored this information and failed to explain why ties to his brother in Canada would be more significant than the ties to his parents. He points to *Azari v Canada (Citizenship and Immigration)*, 2024 FC 34 (at paragraph 6) as analogous:

[6] While the Applicant has raised a number of issues on this application, I find that the determinative issue is the Officer's finding that the Applicant lacked significant family ties outside of Canada. The Officer provides no justification for this determination in the GCMS notes, which is problematic given that the Applicant's Family Information form filed as part of his work permit application lists his mother, father, sister and brother as family members living in Iran, with only one brother living in Canada. I find that the Officer's failure to address this evidence, which directly contradicts the Officer's determination, renders the Officer's decision unreasonable [citations omitted].

[9] The respondent states that the Officer's finding of insufficient financial information was not only reasonable, but also determinative of the decision to refuse Mr. Malasi's application. In this regard, the respondent relies on *Davoodabadi v Canada (Citizenship and Immigration)*, 2024 FC 85 at paras 12-16 [*Davoodabadi*].

[10] Furthermore, the respondent submits that the Officer's findings regarding family ties were reasonable, as Mr. Malasi provided no information about ties to his parents that would motivate his departure from Canada at the end of his stay. Mr. Malasi did not provide a statement to explain his ties to his parents, and his counsel's submissions only stated that he lives with them. The respondent points out that a decision maker is not obliged to refer to all the evidence explicitly, and is presumed to have considered it unless the contrary can be established. Visa officers' decisions are ordinarily brief, and in view of the information in Mr. Malasi's application, the Officer's failure to mention the parents was not unreasonable.

[11] I am not persuaded that the Officer's finding about Mr. Malasi's financial situation was determinative, based on this Court's reasons in *Davoodabadi*. In *Davoodabadi*, the Court held that the officer's finding of insufficient financial information to support a study permit application was determinative: *Davoodabadi* at para 16. The reasoning was based on section 220 of the *IRPR*, which states 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: *Ibid* at para 10. In this case, the respondent has not pointed to a similar statutory requirement for TRVs, and the

Officer did not state that Mr. Malasi's financial situation was determinative. Rather, the Officer reached their decision after weighing multiple factors.

[12] I agree with the respondent that the Officer's failure to mention Mr. Malasi's parents was not in itself unreasonable, given the limited information about them in the application. However, Mr. Malasi's application relied on a number of points about his establishment in Albania to show he would return at the end of his stay. Mr. Malasi stated that he has lived in Albania all his life, he lives with his parents in a home that he owns, he has owned and operated his own business for the past five years, and prior to owning his business he had stable employment. Mr. Malasi also stated that he travelled outside of Albania on numerous occasions and always returned home, and that he needs to return to continue running his business.

[13] The Officer was not required to refer to all of the evidence, but in Mr. Malasi's case, the Officer did not mention any of the points he made about his establishment and it is unclear if the Officer considered them in concluding that Mr. Malasi has no apparent ties to Albania. Since ties to Albania was a main reason why the Officer refused Mr. Malasi's application, I find that Mr. Malasi has established a sufficiently serious shortcoming to warrant setting aside the decision.

[14] For these reasons, the application is allowed.

[15] The parties did not propose a question for certification. There is no question of importance to certify.

JUDGMENT IN IMM-15365-23

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is allowed.
2. The Officer's decision is set aside and the matter is remitted to a different officer for reconsideration.
3. There is no question of general importance to certify.

"Christine M. Pallotta"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-15365-23

STYLE OF CAUSE: DONALDO MALASI v MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: NOVEMBER 27, 2024

JUDGMENT AND REASONS: PALLOTTA J.

DATED: JANUARY 2, 2025

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