

Federal Court



Cour fédérale

Date: 20250404

Docket: IMM-10447-23

Citation: 2025 FC 625

Ottawa, Ontario, April 4, 2025

PRESENT: The Honourable Mr. Justice Favel

BETWEEN:

FARDAD KERMANIZADEH

Applicant

and

**MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Fardad Kermanizadeh [Applicant], a citizen of Iran, seeks judicial review of the July 29, 2023 decision [Decision] by a visa officer [Officer] refusing a temporary study visa. The application was denied due to the Applicant having no significant ties outside of Canada, and the purpose of the visit being inconsistent with a temporary stay.

[2] The Applicant challenges the Decision as being unreasonable and alleges that his right to procedural fairness was breached. The determinative issue on this application is the unreasonableness of the Decision. Accordingly, there is no need to address arguments relating to procedural fairness.

[3] This application for judicial review is allowed.

II. Background

[4] The Applicant applied for a temporary study visa to obtain a diploma in Business Administration from Royal Bridge College in Port Coquitlam, BC. He sought to be accompanied by his spouse.

[5] The Applicant possesses a high school certificate in Mathematics and obtained a pre-university certificate in Mathematics in 2011. Since 2016, the Applicant has been employed at MATRIS Computer Company [MATRIS] as a sales expert. In addition, in May 2019, the Applicant became the owner of a Mobile Accessory & Toy Booth in Iran.

[6] The Applicant received an offer from MATRIS, by way of a cooperation offer dated October 1, 2022 [Cooperation Offer]. The Cooperation Offer indicates the future role of Product Sales Manager with a 70% pay increase following successful completion of the program in Canada.

[7] Evidence was submitted demonstrating adequate financial ability to study in Canada, as well as the financial contribution support of the Applicant's mother and mother-in-law.

Approximately half of the tuition has been paid, and the Applicant was shown to have close to \$60,000 CAD in personal savings, and \$9,000 CAD from family contributions. The Applicant provided: proof of ownership of property in Iran; proof of a clear travel history to UAE, Spain, and France; and a study plan.

III. The Decision

[8] The Global Case Management System [GCMS] notes are reproduced in their entirety below:

“I have reviewed the application. I have considered the following factors in my decision. The ties to their home country are weakened with the intended travel to Canada involving their immediate family, as the motivation to return will diminish with the applicant's immediate family members residing with them in Canada. Insufficient explanation has been given on how the sought educational program would be of benefit or how chosen course will improve job prospects back home. 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.”

IV. Issue and Standard of Review

[9] The determinative issue is whether the Decision is unreasonable.

[10] The standard of review is reasonableness (*Aghaalkhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 11 [*Aghaalkhani*]; *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]). The decision must bear the hallmarks of

reasonableness - justification, transparency and intelligibility - and must be based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law. (*Aghaalkhani* at para 23; *Vavilov* at paras 9, 10, 85, and 99).

[11] Judicial restraint and respect for the distinct role of administrative decision-makers is the starting point of a reasonableness assessment (*Vavilov* at paras 13, 24, 30).

V. Analysis on Reasonableness

(1) Applicant's Position

[12] The Officer provided no intelligible analysis and ultimately rendered a Decision based on unreasonable and factually incorrect inferences in opposition to the evidence filed.

[13] The evidence before the Officer showed that the Applicant and his spouse have significant ties to Iran. Specifically, that the Applicant:

- a) was educated in Iran, high school and pre-university;
- b) has been employed by the same company since August 2016;
- c) has a job offer of promotion on return;
- d) has strong financial ability and sponsors;
- e) has a self-employed business to manage;
- f) has insurance and a pension to use upon retirement;
- g) owns a residential apartment, and a vehicle;
- h) has immediate and extended family in Iran, including his widowed mother, brother, spouse's parents, and spouse's sister. The Applicant and his spouse have no family members in Canada.

[14] The Applicant also demonstrated the close emotional connection with his mother, considering the passing of his father.

[15] The Applicant detailed the strength of his family ties to his home country, as well as financial and career ties. The Officer ignored this evidence, giving no explanation for what evidence was found insufficient. By concluding that the Applicant's ties are weakened with the Applicant's accompanying spouse, many applicants would be precluded from being eligible to study in Canada. The Court has recently considered this in *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159 [*Masouleh*]:

“[33] ...The Officer's GCMS notes lack any explanation of the Principal Applicant's family ties in Iran and how they were assessed in the context of her lack of family ties in Canada, beyond her husband and minor child, who will be accompanying her for the duration of her studies. Although the Officer is not required to mention every piece of evidence, a failure to mention evidence that clearly contradicts the Officer's finding supports the inference than it was overlooked (*Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at para 17, citing *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425).”

[16] Recent cases have opined on nearly identical factors at issue in this case, and the unreasonableness of the officer not taking opposite evidence into consideration, rendering the decision unreasonable (*Ahadi v Canada (Citizenship and Immigration)*, 2023 FC 25 at paras 18-9 [*Ahadi*]; *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183 at paras 18-20 [*Jafari*]).

[17] In the study plan, the Applicant clearly explained why the study plan is beneficial and reasonable in light of his education and employment history, and how his career would benefit upon completion of his studies.

[18] In addition, the Cooperation Offer clearly explains the direct benefit the program will have on the Applicant's career advancement:

“[The] company desires to invite you for continuation of cooperation, in case of successful completion of studies, by you, in the field of Business Administration, and receiving document from Royal Bridge College of Canada. It is evident that this offer will be together with promotion of position and 70% promotion of your income.”

[19] The Officer appears to completely overlook this evidence resulting in an unintelligible, unreasonable, and unjustifiable Decision.

[20] The Applicant explains his educational and professional background and details the reasoning behind his choice to pursue the program given his employment opportunities in Iran following the completion of the program:

“...After graduation and returning to Iran I plan to expand my business and establish more branches of my mobile and accessories store. I also have a job offer from MATRIS Computer Company for the position of Sales Manager. I am confident I will have a higher income and social position after graduation. I choose to continue my education in Canada because most Canadian universities offer high quality, world-class education. Canadian degrees are approved by Iran's Ministry of Science and there are more job opportunities available for graduates of Canadian universities.”

[21] The Officer does not explain why the program is not reasonable, nor why the Applicant's reasoning was insufficient, given the Applicant's career goals. The Officer's findings are simply not supported by the evidence before them.

[22] The Applicant detailed what he hoped to gain and how it will help his current career and self-employed business:

“I have decided to study Business Administration since I believe taking part in this program is complementary to my current knowledge and experience. ... the focus of this program is on human resources, project management, and marketing; three of which are of prime importance to every successful manager. ... For now I feel I need to develop my knowledge and skills, especially in the fields of human resources, project management, and marketing in order to be able to survive in today’s challenging business. I have carefully studied the curriculum... Introduction to Business, Business Information Systems, Accounting, Marketing, Human Resource Management, Microeconomics, Principles of Management, Business Communication, Macroeconomics, Project Management, and Entrepreneurial Management are among the courses offered in this program.”

[23] The Officer did not consider the Applicant’s reasons for pursuing higher education and the benefits it would bring. The Applicant demonstrated that his previous education was insufficient for his business plan and proposed role of Product Sales Manager. The Applicant detailed his knowledge gap and stated the importance of this educational path for his professional prospects in Iran. The Officer’s findings are simply unreasonable, unintelligible, and lack transparency.

[24] An officer’s failure to engage with the particulars of a study plan renders a decision unreasonable (*Shahrezaei v Canada (Citizenship and Immigration)*, 2023 FC 499 at para 17). Rather than engage with the Applicant’s study plan, the Officer assumed the role of career counsellor (*Adom v Canada (Citizenship and Immigration)*, 2019 FC 26 at paras 16).

[25] Nothing in the facts before the Officer suggest that the Applicant would stay in Canada illegally. All the evidence provided points in the opposite direction, including: proof of payment of approximately half of the first-year tuition fees; and a clear history of respecting temporary terms in other countries, specifically in Turkey, Armenia, the UAE, Spain, and France. Absent evidence of risk, and with evidence of the opposite, the Decision is unreasonable (*Aghaalkhani* at para 21; *Jalota v Canada (Citizenship and Immigration)*, 2013 FC 1176 at para 27).

[26] Whether considered alone or together, these reasons do not provide a reasonable basis nor justification for the Officer's conclusion (*Vavilov* at paras 127-8).

(2) Respondent's Position

[27] A foreign national seeking entry to Canada is presumed to be an immigrant, which the applicant must rebut (*Obeng v Canada (Citizenship and Immigration)*, 2008 FC 754 at para 20). The onus is on that applicant to satisfy a visa officer they will leave Canada at the end of the authorized stay (*Danioko v Canada (Minister of Citizenship and Immigration)*, 2006 FC 479 at para 15; *IRPA* ss 11 and 20). Visa officers are obliged to consider (i) whether the applicant will leave Canada at the end of the authorized stay, and (ii) whether the applicant has sufficient and adequate financial resources (*IRPR*, s 216(1)(b), and 220).

[28] Regarding the purpose of the visit, the Applicant failed to sufficiently demonstrate that the program is necessary and would be of benefit to his career goals. The Cooperation Offer does not articulate the necessity of a Canadian education. It only states that if the Applicant does so, he is offered a position on the Product Sales Management Team, which would be a promotion

involving 70% of his income. In fact, the duties of the promoted position listed on the Cooperation Offer do not correlate to the skills obtained in the Diploma program.

[29] The Applicant's study plan emphasizes Canadian university degrees are approved by Iran's Ministry of Science. However, the chosen program is a Diploma program from a Canadian college. The Officer reasonably determined that the study plan: did not provide a clear path to the Applicant's goal of Product Sales Management; and, was not necessary for him to establish more branches of his "mobile accessories store".

[30] The Officer also determined the Applicant's ties to his country would diminish due to his accompanying spouse. In his documentation, the Applicant notes his widowed mother, siblings, and extended family remain in Iran. The Applicant argues that he has no ties to Canada and very strong ties to Iran. This does not address the diminishment of ties to Iran due to accompanying spouse. Also, while the Applicant's land ownership and job offer in Iran are not disputed, they do not address the Officer's concerns regarding sufficiency of motivation to return.

[31] The Officer's determination, "You do not have significant family ties outside Canada[,]” is in and of itself a complete consideration of family members in Iran, immovable property ownership, vehicle ownership and job offer. Since the Officer raised no objection to the establishment of property and job in Iran, these were not at issue, rather, family ties alone were the determinative factor for this part of the Decision.

[32] The Officer is presumed to have considered the whole record and is not obligated to answer every piece of evidence or argument (*Solopova v Canada (Citizenship and Immigration)*, 2016 FC 690 at para 28 [*Solopova*]; *Chinwuba v Canada (Citizenship and Immigration)*, 2023 FC 679 at para 39 [*Chinwuba*]). The determination statement was not “silent” on evidence clearly pointing to the opposite conclusion, instead it accepted the evidence and pointed in its reasons only to the issue of diminished family ties to Iran.

[33] Upon consideration of the totality of the evidence, the Officer reasonably considered the wife’s intent to accompany the Applicant to Canada as an important factor for determining sufficiency of motivation to leave Canada, on a balance of probabilities.

(3) Conclusion

[34] The Decision is unreasonable in terms of the assessment of the Applicant’s family ties in Iran. There is no reference to engagement with the Applicant’s submissions, and only a reference to the Applicant’s accompanying spouse.

[35] When addressing ties to Iran the reasons do not indicate any consideration of the Applicant’s family ties, property, and career in Iran. The only issue stated is the Applicant’s diminishing motivation for return with the Applicant’s spouse residing with him in Canada. This does not align with the number of decisions of this Court offered by the Applicant (*Masouleh* at paras 30, 32-3 and 35-6; *Ahadi* at paras 18-9; *Jafari* at paras 18-20).

[36] While the duties of the promoted position listed in the Cooperation Offer may not correlate perfectly to the skills obtained in the Diploma program, the promoted position is not the only consideration. The Applicant also has his own business requiring these listed skills. The listed skills were also not the main consideration of the program. The Applicant listed three main gaps, and areas of learning that correlate to the program: human resources, project management, and marketing. The Officer does not address any of these.

[37] While the Officer is presumed to have considered the whole record and is not obligated to answer every piece of evidence or argument (*Solopova* at para 28; *Chinwuba* at para 39), the reasons, on the record alone, must demonstrate transparency, intelligibility, and justification. In this case, they do not.

VI. Conclusion

[38] The Officer's failure to engage with the Applicant and his spouse's ties to Iran renders the Decision unintelligible and unjustified. The application for judicial review is allowed.

JUDGMENT in IMM-10447-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed. This matter is remitted for redetermination by a different officer.
2. There is no question for certification.

"Paul Favel"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-10447-23

STYLE OF CAUSE: FARDAD KERMANIZADEH v MINISTER OF
CITIZENSHIP AND IMMIGRATION

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