

Federal Court



Cour fédérale

Date: 20250410

Docket: IMM-21462-24

Citation: 2025 FC 656

Ottawa, Ontario, April 10, 2025

PRESENT: Madam Justice Azmudeh

BETWEEN:

KINGSLEY CHUKWUEBUKA ANUGWO

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

(Simplified Procedure – Study Permit Pilot Project)

I. Overview

[1] Under the Study Permit Pilot Project, the Applicant is seeking a Judicial Review of the rejection of his study permit application. The judicial review is granted for the following reasons.

II. Relevant Facts

[2] The Applicant is a citizen of Nigeria and applied for a study permit in Canada. The determinative issues for the visa officer who made the decision (“Officer”) were that the program

of study in Canada was 'at par' with the Applicant's highest level of education, and not a reasonable progression, and that the program of study in Canada was too expensive.

III. Issues and Standard of Review

[3] The main issue before me is whether the Officer's decision was reasonable.

[4] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], at paras 12-13 and 15; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*], at paras 8 and 63.

[5] I have started by reading the reasons of the decision maker in conjunction with the record that was before them holistically and contextually. As guided by *Vavilov*, at paras 83, 84 and 87, as the judge in reviewing court, I have focused on the reasoning process used by the decision maker. I have not considered whether the decision maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov*, at para 83; *Canada (Justice) v D.V.*, 2022 FCA 181, at paras 15 and 23.

[6] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33, 61; *Mason*, at paras 8, 59-61, 66. For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov*, at para 100). Not all errors or concerns about a decision will warrant intervention.

IV. Legislative Overview

[7] The relevant legislative overview is included in an Annex.

V. Analysis

A. *Was the Officer's decision reasonable?*

[8] On a study permit application, the applicant must establish that they meet the requirements of the IRPA and the IRPR. Visa officers have a wide discretion in their assessment of the application and the Court ought to provide considerable deference to an officer's decision given the level of expertise they bring to these matters. The onus is on the Applicant who seeks temporary entry to Canada to establish and satisfy a visa officer that they will leave Canada at the end of the authorized period of stay requested.

[9] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions and the narrow consequences of a refusal are such that extensive reasons are not required: *Vavilov* at paras 88, 91; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 [Yuzer] at paras 9, 16; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19–20. Nonetheless, the reasons given by the officer must, when read in the context of the record, adequately explain and justify why the application was refused: *Yuzer* at paras 9, 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 [Hashemi] at para 35; *Vavilov* at paras 86, 93–98.

VI. Study Plan

[10] What makes the decision particularly unreasonable was that the Officer's decision was not responsive to the materials the PA had submitted on her study plan. The Officer also questioned the PA's purpose to study in Canada and its benefit, largely because it was at the same level as the PA's previous degree. At no time did the Officer engage with the different and complimentary nature of the proposed degree.

[11] In this case, the Applicant has a diploma in dental technology, works as a dental technologist and now wants to obtain advanced certificate in public health. The Applicant explained in his application documents (statement of purpose, submission letter and affidavit) that the advanced certificate in public health is essential for career progression. He aims to qualify for a managerial position with his current employer, where advanced studies in public health is required. This requirement is also common among competitors for similar roles. The applicant also stated that the same managerial position by other competitors require advanced studies in public health to stand a chance of employment. The applicant identified specific courses in the program, his education, work experience, and program choice demonstrate reasonable career progression. I agree with the Applicant that this case is analogous to *Desai v Canada* 2024 FC 1610 and that the Officer's finding is a form inappropriate foray into career counselling (Desai at para 18).

[12] What the Officer considers a high cost of studying in Canada alone should not raise suspicion in an application. If an Applicant has demonstrated the financial means to afford the proposed course of study, or provided evidence on its benefit, it is not up to the Officer to assess

the value the individual has placed on pursuing higher education in Canada; the cost becomes the Applicant's individual choice: see *Caianda v Canada (MCI)*, 2019 FC 218 at para 5; *Rajasekharan v Canada (MCI)*, 2023 FC 68; *Khosravi v Canada (MCI)*, 2023 FC 805 at para 10.

[13] It is the Officer who must provide adequate reasoning based on the evidence when concluding that the benefits do not outweigh the high costs of study. A bald statement concluding that education in Canada is expensive, without further analysis, is not sufficient: see *Yuzer v Canada (MCI)*, 2019 FC 781 at para 21, *Afuah v Canada (MCI)*, 2021 FC 596 at para 15. I understand that it is open to an Officer to question the disproportionately high cost of an Applicant's proposed studies where there is insufficient evidence of potential career and employment benefits: *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1745 at paras 20-21; *Zeinali* at paras 12-19; *Barot v Canada (Citizenship and Immigration)*, 2023 FC 284 at para 44, and that the onus remains on the Applicant to provide evidence to the benefits of the proposed course of study. However, in this case, the Officer dismissed the Applicant's evidence on available funds and the benefit of their studies without engaging with their evidence. In this case, the Applicant had provided evidence of financial buoyancy, including full payment of the first term tuition, partial payment for the second term and over \$97,000 in available funds. The lack of analysis and engagement with potentially contrary evidence renders the decision arbitrary.

VII. Conclusion

[14] The Officer's Decision is unreasonable, as it does not exhibit the requisite degree of justification, intelligibility, and transparency. The application for judicial review is granted and the decision set aside.

ANNEX

Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]**Application before entering Canada**

11 (1) A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

Electronic travel authorization

(1.01) Despite subsection (1), a foreign national must, before entering Canada, apply for an electronic travel authorization required by the regulations by means of an electronic system, unless the regulations provide that the application may be made by other means. The application may be examined by an officer and, if the officer determines that the foreign national is not inadmissible and meets the requirements of this Act, the authorization may be issued by the officer.

Restriction

(1.1) A designated foreign national may not make an application for permanent residence under subsection (1)

(a) if they have made a claim for refugee protection but have not made an application for protection, until five years after the day on which a final determination in respect of the claim is made;

(b) if they have made an application for protection, until five years after the day on which a final determination in respect of the application is made; or

(c) in any other case, until five years after the day on which they become a designated foreign national.

Visa et documents

11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.

Autorisation de voyage électronique

(1.01) Malgré le paragraphe (1), l'étranger doit, préalablement à son entrée au Canada, demander l'autorisation de voyage électronique requise par règlement au moyen d'un système électronique, sauf si les règlements prévoient que la demande peut être faite par tout autre moyen. S'il décide, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi, l'agent peut délivrer l'autorisation.

Réserve

(1.1) L'étranger désigné ne peut présenter une demande de résidence permanente au titre du paragraphe (1) que si cinq années se sont écoulées depuis l'un ou l'autre des jours suivants :

a) s'il a fait une demande d'asile sans avoir fait de demande de protection, le jour où il a été statué en dernier ressort sur sa demande d'asile;

b) s'il a fait une demande de protection, le jour où il a été statué en dernier ressort sur cette demande;

c) dans les autres cas, le jour où il devient un étranger désigné.

Suspension de la demande

(1.2) La procédure d'examen de la demande de résidence permanente présentée au titre du paragraphe (1) par un étranger qui devient, à la suite de cette demande, un étranger désigné est

Suspension of application

(1.2) The processing of an application for permanent residence under subsection (1) of a foreign national who, after the application is made, becomes a designated foreign national is suspended

(a) if the foreign national has made a claim for refugee protection but has not made an application for protection, until five years after the day on which a final determination in respect of the claim is made;

(b) if the foreign national has made an application for protection, until five years after the day on which a final determination in respect of the application is made; or

(c) in any other case, until five years after the day on which the foreign national becomes a designated foreign national.

Refusal to consider application

(1.3) The officer may refuse to consider an application for permanent residence made under subsection (1) if

(a) the designated foreign national fails, without reasonable excuse, to comply with any condition imposed on them under subsection 58(4) or section 58.1 or any requirement imposed on them under section 98.1; and

(b) less than 12 months have passed since the end of the applicable period referred to in subsection (1.1) or (1.2).

If sponsor does not meet requirements

(2) The officer may not issue a visa or other document to a foreign national whose sponsor does not meet the sponsorship requirements of this Act.

Obligation on entry

20 (1) Every foreign national, other than a foreign national referred to in section 19, who seeks to enter or remain in Canada must establish,

(a) to become a permanent resident, that they hold the visa or other document required under

suspendue jusqu'à ce que cinq années se soient écoulées depuis l'un ou l'autre des jours suivants :

a) si l'étranger a fait une demande d'asile sans avoir fait de demande de protection, le jour où il a été statué en dernier ressort sur la demande d'asile;

b) s'il a fait une demande de protection, le jour où il a été statué en dernier ressort sur cette demande;

c) dans les autres cas, le jour où il devient un étranger désigné.

Refus d'examiner la demande

(1.3) L'agent peut refuser d'examiner la demande de résidence permanente présentée au titre du paragraphe (1) par l'étranger désigné si :

a) d'une part, celui-ci a omis de se conformer, sans excuse valable, à toute condition qui lui a été imposée en vertu du paragraphe 58(4) ou de l'article 58.1 ou à toute obligation qui lui a été imposée en vertu de l'article 98.1;

b) d'autre part, moins d'une année s'est écoulée depuis la fin de la période applicable visée aux paragraphes (1.1) ou (1.2).

Cas de la demande parrainée

(2) Ils ne peuvent être délivrés à l'étranger dont le répondant ne se conforme pas aux exigences applicables au parrainage.

Obligation à l'entrée au Canada

20 (1) L'étranger non visé à l'article 19 qui cherche à entrer au Canada ou à y séjourner est tenu de prouver :

a) pour devenir un résident permanent, qu'il détient les visa ou autres documents réglementaires et vient s'y établir en permanence;

the regulations and have come to Canada in order to establish permanent residence; and
(b) to become a temporary resident, that they hold the visa or other document required under the regulations and will leave Canada by the end of the period authorized for their stay.
 [...]

Right of temporary residents

29 (1) A temporary resident is, subject to the other provisions of this Act, authorized to enter and remain in Canada on a temporary basis as a visitor or as a holder of a temporary resident permit.

Obligation — temporary resident

(2) A temporary resident must comply with any conditions imposed under the regulations and with any requirements under this Act, must leave Canada by the end of the period authorized for their stay and may re-enter Canada only if their authorization provides for re-entry.

Extended period

(3) In the case of a temporary resident who is authorized to enter and remain in Canada for an extended period in order to visit a Canadian citizen or permanent resident who is their child or grandchild, the period referred to in subsection (2) is five years.

b) pour devenir un résident temporaire, qu'il détient les visa ou autres documents requis par règlement et aura quitté le Canada à la fin de la période de séjour autorisée.
 [...]

Droit du résident temporaire

29 (1) Le résident temporaire a, sous réserve des autres dispositions de la présente loi, l'autorisation d'entrer au Canada et d'y séjourner à titre temporaire comme visiteur ou titulaire d'un permis de séjour temporaire.

Obligation du résident temporaire

(2) Le résident temporaire est assujéti aux conditions imposées par les règlements et doit se conformer à la présente loi et avoir quitté le pays à la fin de la période de séjour autorisée. Il ne peut y rentrer que si l'autorisation le prévoit.

Longue période

(3) Dans le cas du résident temporaire autorisé à entrer au Canada et à y séjourner pendant une longue période afin de rendre visite à son enfant ou son petit-enfant qui est citoyen canadien ou résident permanent, la période mentionnée au paragraphe (2) est de cinq ans.

Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR]

Issuance

179 An officer shall issue a temporary resident visa to a foreign national if, following an examination, it is established that the foreign national

- (a)** has applied in accordance with these Regulations for a temporary resident visa as a member of the visitor, worker or student class;
- (b)** will leave Canada by the end of the period authorized for their stay under Division 2;
- (c)** holds a passport or other document that they may use to enter the country that issued it or another country;

Délivrance

179 L'agent délivre un visa de résident temporaire à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

- a)** l'étranger en a fait, conformément au présent règlement, la demande au titre de la catégorie des visiteurs, des travailleurs ou des étudiants;
- b)** il quittera le Canada à la fin de la période de séjour autorisée qui lui est applicable au titre de la section 2;

- (d)** meets the requirements applicable to that class;
- (e)** is not inadmissible;
- (f)** meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and
- (g)** is not the subject of a declaration made under subsection 22.1(1) of the Act.

Study permits

216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

- (a)** applied for it in accordance with this Part;
- (b)** will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;
- (c)** meets the requirements of this Part;
- (d)** meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and
- (e)** has been accepted to undertake a program of study at a designated learning institution.

Exception

(2) Paragraph (1)(b) does not apply to persons described in section 206 and paragraphs 207(c) and (d).

Study in Quebec

(3) An officer shall not issue a study permit to a foreign national who intends to study in the Province of Quebec — other than under a federal assistance program for developing countries — and does not hold a *Certificat d'acceptation du Québec*, if the laws of that Province require that the foreign national hold a *Certificat d'acceptation du Québec*.

- c)** il est titulaire d'un passeport ou autre document qui lui permet d'entrer dans le pays qui l'a délivré ou dans un autre pays;
- d)** il se conforme aux exigences applicables à cette catégorie;
- e)** il n'est pas interdit de territoire;
- f)** s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);
- g)** il ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1) de la Loi.

Permis d'études

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

- a)** l'étranger a demandé un permis d'études conformément à la présente partie;
- b)** il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;
- c)** il remplit les exigences prévues à la présente partie;
- d)** s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);
- e)** il a été admis à un programme d'études par un établissement d'enseignement désigné.

Exception

(2) L'alinéa (1)b) ne s'applique pas aux personnes visées à l'article 206 et aux alinéas 207c) et d).

Études au Québec

(3) Le permis d'études ne peut être délivré à l'étranger qui cherche à étudier dans la province de Québec — autrement que dans le cadre d'un programme fédéral d'aide aux pays en voie de développement — et qui ne détient pas le certificat d'acceptation exigé par la législation de cette province.

JUDGMENT IN IMM-3153-23

THIS COURT'S JUDGMENT is that

1. The Judicial Review is granted. The matter is remitted for redetermination by a different Officer.
2. There is no certified question.

"Negar Azmudeh"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-21462-24

STYLE OF CAUSE: KINGSLEY CHUKWUEBUKA ANUGWO V.
MINISTER OF CITIZENSHIP AND
IMMIGRATION

**SUBMISSIONS ON STUDY PERMIT PERFECTED LEAVE APPLICATION
CONSIDERED AT OTTAWA, ONTARIO PURSUANT TO SECTION 72 OF THE
*IMMIGRATION AND REFUGEE PROTECTION ACT***

JUDGMENT AND REASONS AZMUDEH J.

DATED: APRIL 10, 2025

WRITTEN REPRESENTATIONS BY:

Chukwuka Okwuosa FOR THE APPLICANT

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