

Federal Court



Cour fédérale

Date: 20250429

Docket: IMM-3112-24

Citation: 2025 FC 772

Ottawa, Ontario, April 29, 2025

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

SHANAJ FATEMA

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION c/o Justice Department**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Shanaj Fatema [Applicant], seeks judicial review of a January 10, 2024, decision by a migration officer at the High Commission of Canada in Singapore [Officer] refusing the application for permanent residence under the Quebec investor class in accordance with subsection 11(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and subsection 90(2) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227

[IRPR]. The Officer was not satisfied with the Applicant's intent to reside in the Province of Quebec and therefore did not meet the requirements of the IRPA and the IRPR.

[2] For the reasons that follow, this application for judicial review is dismissed. The Applicant has not met her onus of demonstrating that the Decision is unreasonable.

II. Background and Decision Under Review

[3] The Applicant is a citizen of Bangladesh. On February 4, 2019, Immigration, Refugees and Citizenship Canada [IRCC] received the Applicant's application for a permanent residence visa in the Quebec investor category.

[4] On January 5, 2023, the High Commission of Canada requested from the Applicant several documents, including a "detailed written settlement plan for arrival in Quebec" and a "detailed written outline, accompanied by any available evidence explaining employment / business plans for after arrival in Quebec." The Applicant responded to this request on March 6, 2023, by submitting eight documents including among others a settlement plan, a support letter from a friend and a French course admission for her children.

[5] On October 5, 2023, the High Commission of Canada sent a convocation letter to the Applicant for an interview to be held on November 8, 2023, which provided a list of all documents required for the interview [Convocation Letter]. The Convocation Letter reminds the Applicant that she has the onus of demonstrating she meet the eligibility requirements. The list

attached to the Convocation Letter also specifies that the Applicant can “bring additional documents to demonstrate that [she] meet[s] the selection criteria.”

[6] On November 8, 2023, the Applicant attended the interview with her husband and brought the interview notification letter, her personal net worth statement, her Schedule 5 – declaration of intent to reside in Quebec economic classes and two updated Schedule A - Background / Declaration form.

[7] On January 10, 2024, the Officer refused the Applicant’s application for a permanent resident visa because he was not satisfied that she intends to reside in the province of Quebec, as required by subsection 90(2) of the IRPR. The Officer explains that the Applicant “failed to demonstrate any substantive action taken or meaningful awareness of what would be required for moving to and establishing a business in Quebec.” The requested “Business Plan” was also not provided. The Applicant was given the opportunity to address the High Commission of Canada’s concerns through the Convocation Letter that requested specific documents and in an interview. The Applicant was unable to provide anything of substance that would demonstrate that she had done any real groundwork to establish a business or live in Quebec permanently. On the whole, the Officer found that the Applicant’s response to their document request and the interview was deemed insufficient to fulfill the required criteria. This Decision is under review.

III. Issues and Standard of Review

[8] The issue on judicial review is whether the Decision was unreasonable and whether there was a breach of procedural fairness.

[9] The parties submit that the standard of review with respect to the merits of the Decision is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25). I agree that reasonableness is the applicable standard of review.

[10] On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (Vavilov at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (Vavilov at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (Vavilov at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (Vavilov at para 100).

[11] A claim of procedural fairness is determined on a standard of review more akin to the standard of correctness. The Court must analyze whether the proceedings were fair in light of all the circumstances (*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at paras 21-28 [Baker]; *Canadian Pacific Railway Limited v Canada (Attorney General)*, 2018 FCA 69 at paras 54-56; *Lipskaia v Canada (Attorney General)*, 2019 FCA 267 at para 14).

[12] The fundamental question remains whether the Applicant knew the case to be met and whether he had a full and fair opportunity to respond to it. The duty to act fairly is twofold: (1) the right to a fair and impartial hearing before an independent decision-maker, and (2) the right to be heard (*Fortier v Canada (Attorney General)*, 2022 FC 374 at para 14; *Therrien (Re)*, 2001

SCC 35 at para 82). Everyone is entitled to a full and fair opportunity to present his or her case (*Baker* at para 28). The nature and extent of the duty will vary with the specific context and the different factual situations dealt with by the administrative decision-maker, as well as the nature of the disputes it must resolve. The more important the decision is to the lives of those affected and the greater its impact on that person or those persons, the more stringent the procedural protections that will be mandated (*Baker* at paras 25 - 26).

IV. Analysis

A. *There is no breach of procedural fairness*

[13] The Applicant submits that there was a breach of procedural fairness because she did not know the case that had to be met prior to the interview because the Convocation Letter did not identify the Officer's concerns about the Applicant's intention to reside in Quebec.

[14] It is not contested that in the Quebec Investor Class, an applicant must satisfy two criteria. First, they must have obtained a Certificat de Sélection du Québec [CSQ] from the government of Quebec. Second, they must demonstrate the intent of residing in Quebec.

[15] Procedural fairness and the extent of the "notice" in an interview convocation letter in the context of the Quebec Investor Class application process has recently been addressed by Justice Gleeson in *Khan v Canada (Citizenship and Immigration)*, 2025 FC 104 [*Khan*].

[16] In *Khan*, the applicant was advised in a letter convoking an interview that the purpose of the interview is “to assess the application and that the applicant has the onus of satisfying the interviewing officer that the eligibility requirements have been met.” In that case, the applicant had been granted a CSQ. As such, the only other statutory requirement left for the applicant to satisfy is the intent of residing in Quebec. Justice Gleeson found that under these circumstances, it was evident that only a single requirement remained in issue - the applicant’s intent to reside in Quebec. As such, the letter provided to the applicant was sufficient and fair. This is particularly so where an applicant had been recently requested to provide evidence of intent to reside and where the duty of fairness owed the applicant is at the lower end of the spectrum. The jurisprudence has also long recognized that concerns arising directly from the requirements of the IRPR do not trigger an obligation to provide notice to an applicant (*Khan* at para 11, citing *Quan v Canada (Citizenship and Immigration)*, 2022 FC 576 at paras 33-34 [*Quan*]).

[17] It is also well established that immigration officers do not have an obligation to share their concerns regarding the evidence submitted in support of a permanent residence application when these concerns arise directly from one of the requirements of the statutes and regulations (*Quan* at para 33, citing *Naboulsi v Canada (Citizenship and Immigration)*, 2019 FC 1651, at para 92; *Zeeshan v Canada (Citizenship and Immigration)*, 2013 FC 248 at paras 33, 46; *Rukmangathan v Canada (Minister of Citizenship and Immigration)*, 2004 FC 284 at para 23).

[18] Justice Gascon in *Quan* also underlined that procedural fairness does not require visa applicants to be given the opportunity to respond to concerns about information that they are

aware of and have provided themselves. More generally, it is well accepted that visa officers do not have a duty or legal obligation to seek to clarify a deficient application, to reach out and make an applicant's case, to apprise an applicant about concerns arising directly from the legislation or regulations, to provide the applicant with a running score at every step of the application process, or to offer further opportunities to respond to continuing concerns or deficiencies. To impose such an obligation would be akin to giving advance notice of a negative decision, an obligation that the Court has expressly rejected on many occasions. (*Quan* at para 34 citing *Sharma v Canada (Citizenship and Immigration)*, 2020 FC 381 at para 32 and *Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 23).

[19] The onus is on visa applicants to put together applications that are convincing, to anticipate adverse inferences contained in the evidence and address them, and to demonstrate that they have a right to enter Canada. Procedural fairness does not arise whenever an officer has concerns that an applicant could not reasonably have anticipated (*Quan* at para 35, citing *Singh v Canada (Citizenship and Immigration)*, 2012 FC 526 at para 52).

[20] The Applicant has cited *Yaman v Canada (Citizenship and Immigration)*, 2021 FC 584 [*Yaman*] in support of her argument that there was a breach of procedural fairness. The issue in *Yaman* related to an application for the Quebec Investor Class and a convocation to an interview. In *Yaman*, the Court found that the applicant was left to guess about the actual nature of the concern, and the notice about the issues of concerns were only provided to the applicants, "late in the interview process." As a result, it "did not afford the applicant to address the officer's concerns in any meaningful way, nor focus his answers, during most of the interview, to the

Officer's specific concerns." Furthermore, the applicant had also requested additional details that were not provided (*Yaman* at paras 23 - 26).

[21] The context of the procedure that was followed in a particular application process must be assessed on a case-by-case basis (*Quan* at paras 39 - 41; *Khan* at para 13). As such, a reviewing court must take into account the particular context and circumstances, to assess whether the process followed by the administrative decision maker was fair and offered the affected parties a right to be heard as well as a full and fair opportunity to know and respond to the case against them (*Quan* at para 19), and noting that the duty of procedural fairness of a visa officer sits at the lower end of the spectrum.

[22] In the Applicant's case, the High Commission of Canada sent a letter on January 5, 2023, asking for additional information and specifically outlined five documents. Three of the documents requested related to the residency requirement. The other two documents were updated Good Conduct Certificates and Schedule A - Background/Declaration Form. The interview letter notified the Applicant that the purpose of the interview was to satisfy the officer that the Applicant met the requirements as imposed by the IRPR.

[23] I find that the letter convoking the Applicant to an interview did not breach procedural fairness. The Applicant's facts are similar to those in *Khan* and *Quan*. The notice provided to the Applicant had similar language, stating that the interview was "to assess the application and that the applicant has the onus of satisfying the interviewing officer that the eligibility requirements have been met." The Applicant had been granted a CSQ. As such, it would have been clear that

the only remaining issue to resolve, as set out in the IRPR, is her intention to reside in Quebec. Furthermore, the Officer's concerns arose directly from the requirements of the IRPR and do not trigger an obligation to provide notice to the Applicant.

[24] The Global Case Management System Notes [GCMS Notes] form part of the Decision (*Khan* at para 20). These GCMS Notes also include the Officer's detailed notes of the interview. When reading the notes of the interview, it is clear that the Officer identified their concerns early in the interview and their intention to discuss the issue relating to the Applicant's intention to reside in Quebec. The Applicant was given the opportunity to respond, but her answers were not satisfactory.

[25] In the Applicant's case, the Officer was also not required to provide more specificity about their concerns when they arise from a discrete regulatory requirement and from information that the Applicant provided. To require prior notice, as the Applicant contends, would raise the duty of procedural fairness over and above the low end of the spectrum where it resides (*Quan* at para 40).

B. *The Decision is reasonable*

[26] The Applicant argues that the Officer erred by treating the existence of a business plan as a program requirement, which it is not. As such, the Applicant states that the Officer elevated the requirements of subsection 90(2) of the IRPR and heightened the Applicant's burden of proof, by faulting her for not convincing them that she intends to set up a business in Quebec when there is no requirement for her to do so. The Officer underplayed an important part of the Applicant's

settlement plan and erred in faulting the Applicant and her husband for not providing more detailed evidence on the establishment of their new life in Canada. In these circumstances and considering her reliance on her friend in Quebec, the Applicant argues that it is unreasonable to expect someone to research elements as specific as business location options, potential schools, requirements of employment in Canada and anticipated costs when they do not know if they will be moving to Canada.

[27] Additionally, the Applicant argues that the Officer engaged in speculation when stating that the Applicant would not likely reside in Quebec if the permanent resident visas were issued to her and to her family. This approach is unreasonable since there is no foundation to the Officer's belief. The Applicant states that it is difficult to understand how the Officer came to this conclusion when the evidence before him only points to ties with the province of Quebec.

[28] On the other hand, the Respondent states that the Decision is reasonable. The Officer properly reviewed and analyzed the evidence filed by the Applicant and provided clear, detailed and cogent reasons to refuse her application. The Applicant simply did not meet her burden under paragraph 90(2)(a) of the IRPR. The Applicant provided limited concrete and tangible evidence of having prepared to relocate and reside in Quebec and she provided vague and insufficient information during her interview. The Officer was therefore not satisfied that she intends to reside in Quebec because her statements were vague, and she submitted very limited tangible evidence.

[29] While there is no definite standard to be met by a visa applicant who seeks to demonstrate that he/she has the intent to reside in Quebec, it is clear from the case law that determining the “intent” of an applicant is an exercise infused with subjectivity. Indeed, the Court’s jurisprudence is clear that a visa officer has a large degree of discretion when determining the “intent” of an applicant to reside in a given province, as he/she is allowed to take into account all available indicia at his/her disposal (*Khan* at para 6; *You v Canada (Citizenship and Immigration)* 2023 CF 1675 at para 21; *Quan* at para 24 citing *Tran v Canada (Citizenship and Immigration)*, 2021 FC 721 at para 33; *Yaman* at para 29; *Rabbani v Canada (Citizenship and Immigration)*, 2020 FC 257 at para 43; *Dhaliwal v Canada (Citizenship and Immigration)*, 2016 FC 131 at para 31).

[30] The Applicant distinguished the analysis in *Quan* because in that case, the applicant had submitted a business plan to open a restaurant. As such, the officer’s questions on the business plan as part of an assessment of intent to reside in Quebec was reasonable in those circumstances. However, the Applicant contends she never submitted a business plan in response to the January 5, 2023, letter. As such, it was unreasonable for the Officer to reject her application on the basis of her answers at the interview on a business plan.

[31] I cannot agree with the Applicant’s argument. In the Applicant’s case, one of the three types of documents requested in the January 5, 2023, letter is a “detailed written outline, accompanied by any available evidence explaining employment / business plans for after arrival in Québec.” It is true that the Applicant did not submit a business plan in response to this January 5, 2023, letter. However, having considered the record before the Officer, the Applicant had in

fact mentioned in the documents she submitted prior to the March 2023 interview that she wanted to start a business in Quebec. In a letter from her friend dated February 3, 2023, and in her settlement plan dated January 30, 2023, the Applicant's intention to develop a new business in Canada was also stated.

[32] A visa officer can, in the context of an interview, question and seek clarification of an applicant's statements. The purpose of an interview is not to merely challenge the credibility of an applicant's statements, but it also serves to ascertain the sufficiency of those statements to support an application (*Quan* at para 26 citing *Kisana v Canada (Citizenship and Immigration)*, 2009 FCA 189 at para 29). As in *Quan*, the Officer had concerns about the Applicant's stated intention to develop a new business in Canada.

[33] Here, the information submitted by the Applicant stated her intention to develop a business. It was therefore open to the Officer to ask for more information on this intention. Indeed, the questions asked during the interview were to address these concerns. The Applicant's vague answers did not satisfy the Officer's concerns. The Officer's consideration of a business plan was grounded in the factual and legal constraints that bear upon him. It was therefore reasonable for the Officer to follow up on the issue of a business plan in the interview and I find no reviewable error in his doing so.

[34] I also do not agree with the Applicant that her application was denied primarily because of the Officer's unreasonable focus on a business plan.

[35] Out of about fifty or so questions during the interview, five related to a business plan. When answering these questions, the Applicant provided more information on her business plans explaining that she wanted to open a garment and accessories business in Quebec. She expressed that she wanted to buy clothes and accessories from Bangladesh and sell them in Quebec as there is a market for Bangladeshi clothes. The other questions asked during the interview addressed other aspects of her intention to reside in Quebec. The GCMS Notes demonstrate that, the Officer asked questions about the Applicant's documents and assertions. For example, the Officer asked about the Applicant's settlement plan, her previous trip to Canada, the lack of proficiency in French and contradictory answers on this issue, among other things. The questions asked at the interview are relevant factors to assess an intention of residing in Quebec. The Officer considered the Applicant's answers to these questions and the record supported the Officer's conclusions.

[36] Reading the Decision holistically and considering the record before the Officer, I cannot conclude that the denial of the application was unreasonable or based solely on the lack of a business plan. I cannot find that the Officer's conclusion that the Applicant did not satisfy them that she had the requisite intent to reside in Quebec was unreasonable (*Quan* at para 29).

V. Conclusion

[37] The Decision is transparent, intelligible and justifiable in light of the legal and factual constraints that bear on it. As such, the Decision is not unreasonable and the application for judicial review is dismissed. The parties do not propose any question for certification, and I agree that in these circumstances, none arise.

JUDGMENT in IMM-3112-24

THIS COURT'S JUDGMENT is that:

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

"Phuong T.V. Ngo"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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APPEARANCES:

Annabel Busbridge FOR THE APPLICANT

Guillaume Bigaouette FOR THE RESPONDENT

SOLICITORS OF RECORD:

Bertrand Deslauriers FOR THE APPLICANT
Barristers and Solicitors
Montréal (Québec)

Attorney General of Canada FOR THE RESPONDENT
Montréal (Québec)