

Federal Court



Cour fédérale

Date: 20250506

Docket: IMM-11949-24

Citation: 2025 FC 821

Ottawa, Ontario, May 6, 2025

PRESENT: Mr. Justice Gascon

BETWEEN:

GEZIM SMAJLAJ

Applicant

And

**THE MINISTER CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Gezim Smajlaj, seeks judicial review of a Pre-Removal Risk Assessment [PRRA] decision rendered on January 4, 2024 [Decision] by a senior immigration officer [Officer], pursuant to subsection 112(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. In the Decision, the Officer found insufficient evidence to determine that Mr. Smajlaj would face a personalized risk of harm or persecution if he were removed to Albania, his

country of citizenship. The Decision followed a negative decision of the Refugee Protection Division [RPD], which had dismissed Mr. Smajlaj's claim for refugee protection due to a lack of credibility as to the alleged existence of a generational blood feud between his family and the Delaj family.

[2] Mr. Smajlaj submits that the Officer's assessment of the evidence at hand is unreasonable. More specifically, he argues that the Officer unreasonably fixated on details which are not confirmed by the evidence, omitted contradictory evidence, disregarded certain pieces of evidence because they preferred others, and adopted an erroneous "comparative approach to risk assessment" when examining the country condition evidence on Albania.

[3] For the reasons that follow, Mr. Smajlaj's application for judicial review will be dismissed. In my view, the Decision is reasonable considering the Officer's determinations regarding the shortcomings of the evidence submitted by Mr. Smajlaj in support of his PRRA application. There are no grounds justifying the Court's intervention.

II. Background

A. *The factual context*

[4] Mr. Smajlaj is a citizen of Albania. After having his refugee claim denied in the United States and being deported back to Albania, he travelled to Canada in 2012 and claimed refugee protection. As a basis for his claim, he alleged a fear of persecution at the hands of the Delaj

family because of an ongoing blood feud between his family and the Delaj family stemming from a 1935 killing.

[5] In December 2018, the RPD dismissed Mr. Smajlaj's refugee claim. The RPD found that Mr. Smajlaj was not a credible witness and that his account of fearing harm at the hands of the Delaj family due to an alleged blood feud was not credible. In short, the RPD concluded that the Delaj family was not looking for him and that there was no blood feud.

[6] In June 2023, Mr. Smajlaj submitted his PRRA application. Therein, he detailed new alleged risks since the refusal of his refugee claim. Mr. Smajlaj claimed that his nephew [Nephew] was approached by members of the Delaj family after renovating his cousin's [Cousin] home. The Delaj family demanded that the Nephew hand the property to them and leave the area. The Nephew refused and was threatened as a result. The Nephew later woke up one day to find the Cousin's newly renovated house in flames. The police have made no arrests related to the fire. Two years later, the Nephew was allegedly shot by members of the Delaj family.

B. *The PRRA Decision*

[7] In the Decision, the Officer reviewed the evidence put forward by Mr. Smajlaj. Based in part on the adverse credibility findings of the RPD, the Officer concluded that Mr. Smajlaj had not demonstrated that he faced a personalized risk in Albania as a result of a blood feud between his family and the Delaj family.

[8] In the Officer's opinion, there were a variety of shortcomings in Mr. Smajlaj's evidence:

(i) there was no evidence on the address of the burned property and on the identity of its legal owner(s); (ii) the notarized statements from the Nephew and Cousin were not accompanied by government-issued identity documents; (iii) the photographs of the fire taken by the Nephew lacked any identifying features such as an address or date; (iv) the certificates and letter from third parties attesting to the existence of the blood feud were not from any of the organizations authorized to certify the existence of such blood feuds in Albania; (v) the certificates from the police department and the fire department did not indicate the address of the property at issue and the names of the suspects; and (vi) there was no police report on the Cousin's violent encounters with the Delaj family.

[9] Moreover, the Officer concluded that the general country condition evidence on Albania did not establish a personalized risk for Mr. Smajlaj.

C. *Standard of review*

[10] It is well established — and not disputed by the parties — that the standard of review applicable to the assessments made by PRRA officers is reasonableness (*Flores Carrillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94 at para 36; *Kiss v Canada (Citizenship and Immigration)*, 2024 FC 363 at para 12 [Kiss]; *Bah v Canada (Citizenship and Immigration)*, 2023 FC 570 at para 11; *Rinchen v Canada (Citizenship and Immigration)*, 2022 FC 437 at para 15; *Ashkir v Canada (Citizenship and Immigration)*, 2020 FC 861 at paras 10–12; *Garces Canga v Canada (Citizenship and Immigration)*, 2020 FC 749 at paras 19–20; *Benko v Canada (Citizenship and Immigration)*, 2017 FC 1032 at para 15). This is confirmed by the

Supreme Court of Canada’s landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], where the court established a presumption that the standard of reasonableness is the applicable standard in judicial reviews of the merits of administrative decisions (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [Mason]).

[11] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85; *Mason* at para 64). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99). Both the outcome of the decision and the decision maker’s reasoning process must be considered in assessing whether these hallmarks are met (*Vavilov* at paras 15, 95, 136).

[12] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention,” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Mason* at paras 58, 60; *Vavilov* at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13), without “reweighing and reassessing the evidence” before it (*Vavilov* at para 125).

[13] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are “sufficiently serious shortcomings” (*Vavilov* at para 100).

III. Analysis

[14] Mr. Smajlaj submits that the Officer’s assessment of the evidence at hand is unreasonable. More specifically, he argues that the Officer unreasonably fixated on details which are not confirmed by the evidence. Mr. Smajlaj also argues that the Officer omitted contradictory evidence, disregarded certain pieces of evidence on the basis that they would have preferred others, and adopted an erroneous “comparative approach to risk assessment” when examining the country condition evidence on Albania.

[15] I am not persuaded by Mr. Smajlaj’s submissions.

[16] As observed by the respondent, the Minister of Citizenship and Immigration [Minister], Mr. Smajlaj’s submissions essentially boil down to a request to reweigh the evidence, something the Court cannot do on judicial review, absent exceptional circumstances (*Vavilov* at para 125). In this case, none of the Officer’s conclusions are irrational or arbitrary to the point that the reasonableness of the Decision is undermined.

[17] Pursuant to paragraph 113(a) of the IRPA, PRRA officers must respect the RPD’s findings, unless there is new evidence that might have affected the outcome of the RPD hearing had this evidence been before the RPD (*Raza v Canada (Citizenship and Immigration)*, 2007

FCA 385, at para 13; *Arsu v Canada (Citizenship and Immigration)*, 2022 FC 471 at para 18). In my view, the Officer reasonably found that this was not demonstrated in this case.

[18] From the outset, I observe that Mr. Smajlaj's new allegations of risk before the Officer were essentially a new chapter of the same blood feud narrative that was not found credible by the RPD. It is important to recognize that the Officer was assessing Mr. Smajlaj's PRRA application against a backdrop of negative credibility findings squarely on point, namely, the existence of a blood feud between the same two families (*Mahamat v Canada (Citizenship and Immigration)*, 2019 FC 1360 at para 12). I also note that Mr. Smajlaj did not file a personal statement of any kind attesting to his new allegations. In light of this, the Officer cannot be faulted for paying careful attention to the documentary evidence provided by Mr. Smajlaj in his PRRA application.

[19] I find that it was open to the Officer to conclude that Mr. Smajlaj's new evidence failed to overcome the RPD's prior finding that there was no blood feud. By virtue of his PRRA application, Mr. Smajlaj endeavoured to add new elements to his previous narrative about an alleged blood feud. The Officer did not err by pointing out why this new evidence was insufficient to resuscitate a blood feud found to be inexistent by the RPD and to establish a personalized risk of harm or persecution in Albania for Mr. Smajlaj.

[20] In the Decision, the Officer reasonably explained that Mr. Smajlaj had not sufficiently proven, among other things, that his Cousin's house was burned. Neither the notarized statements by the Nephew and the Cousin nor the certificates by the authorities mention the house's address. It is true that the police department's certificate refers to the Cousin's name.

Arguably, this may have sufficed to support Mr. Smajlaj's position. However, the fact that there may be other reasonable interpretations of the facts does not make the Officer's chosen interpretation unreasonable (*Vavilov* at para 86; *Sachdeva v Canada (Citizenship and Immigration)*, 2024 FC 1522 at para 58; *Tong v Canada (Public Safety and Emergency Preparedness)*, 2023 FC 625 at para 32). Furthermore, the Officer's conclusion as to the lack of government-issued identifications with the statements is reasonable, as it was but one reason among others for a lack of probity, unlike the situation described in *Sunday v Canada (Citizenship and Immigration)*, 2021 FC 266 at paragraph 21.

[21] Likewise, I find it reasonable for the Officer to assign little weight to the Cousin's notarized statement given that the latter did not offer a police report of either of the two alleged incidents with the Delaj family. I do not accept Mr. Smajlaj's argument that the Cousin's vague allegation that the Delaj family has ties with the police "squarely" contradicts the Officer's conclusion and falls within the ambit of this Court's seminal decision in *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 (FC), [1998] FCJ No 1425 (QL) at paragraph 17 [*Cepeda-Gutierrez*].

[22] The exception set out in *Cepeda-Gutierrez* is narrow. It does not support the proposition that a mere failure to refer to important evidence running contrary to a decision maker's conclusion automatically renders a decision unreasonable and causes it to be set aside. On the contrary, *Cepeda-Gutierrez* states that it is only when the omitted evidence is critical and squarely contradicts the administrative decision maker's conclusion on key elements of its reasons that the reviewing court may determine that the decision maker unreasonably disregarded material before it (*Gonzalez Vargas v Canada (Citizenship and Immigration)*, 2025

FC 419 at para 53). This is not the case here. The Officer did not turn a deaf ear to the Cousin's notarized statement. They instead expressly considered it but assigned little weight to it due to the lack of a police report. Moreover, the allegation as to the Delaj family's ties with the police is too vague to squarely contradict the Officer's conclusion and fit within the narrow *Cepeda-Gutierrez* exception. More details were needed but were not provided.

[23] At the hearing, counsel for Mr. Smajlaj could not identify any specific compelling evidence in the record that the Officer allegedly missed, overlooked, or ignored. In sum, Mr. Smajlaj complains about the manner in which the Officer assessed and weighed the evidence, but does not raise any genuine failure to take evidence into account.

[24] With respect to the certificates and letter attesting to a blood feud, it was not unreasonable for the Officer to give limited weight to this evidence, since the country condition evidence showed that the organizations which issued this evidence were not among those with an official capacity to confirm a blood feud, and that unofficial evidence of this nature is susceptible to being fraudulent.

[25] As rightly underlined by counsel for the Minister, it is important to remind that the RPD had already concluded that there was no credible evidence of any blood feud between the Smajlaj and Delaj families. The starting point of the Officer's PRRA analysis was not neutral and, in such context, it was not unreasonable for the Officer to seek probative evidence supporting new allegations of a continuing blood feud.

[26] Mr. Smajlaj attempts to fault the Officer for being too granular and having a fixation on details. I do not agree. An administrative decision maker's analysis does not become unreasonable or overzealous because it happens to be exhaustive, focused, and comprehensive. Quite the contrary, such an approach reflects the rigour that applicants (and the reviewing courts) have the right to expect from a decision maker's analysis. I would add that a decision maker must in fact demonstrate such rigour to satisfy the requirement for a "justified" decision established in *Vavilov*. A decision maker's analysis only veers towards being too granular when it delves into peripheral issues and examines elements or contradictions that are insignificant or irrelevant to the purpose of a refugee claim or risk assessment. This is clearly not the situation here as the alleged blood feud was at the very heart of Mr. Smajlaj's alleged risk of persecution, had been rejected by the RPD, and thus needed to be thoroughly assessed by the Officer when Mr. Smajlaj elected to rise it from its ashes in his PRRA application.

[27] In general, it appears that Mr. Smajlaj conflated adverse findings of credibility with findings of insufficient proof by the Officer. It cannot be assumed that, in cases where an immigration officer finds that the evidence does not establish the applicant's claim due to certain omissions, the officer has not believed the applicant (*Kiss* at para 25; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at para 41).

[28] This is also not a situation where the Officer erred by assessing evidence based on what it does not say, rather than on what it does say (*Sitnikova v Canada (Citizenship and Immigration)*, 2016 FC 464 at paras 22–23 [*Sitnikova*]). In fact, the Officer identified weaknesses in the sworn statements themselves, namely, the lack of certain key details (*Sitnikova* at para 26). They found

parts of the notarized statements to be persuasive (e.g., the fact that the Nephew renovated the Cousin's house), but concluded that omissions diminished their overall weight in establishing a personalized risk. For instance, the Officer found the sworn statements insufficient because they never actually identified the burned house that was central to the new chapter of Mr. Smajlaj's previously rejected narrative. This is not disregarding the evidence based on what it did not say. It is merely identifying a lack of crucial detail.

[29] Lastly, Mr. Smajlaj's argument about a "comparative approach to risk assessment" misses the Officer's conclusion that there was little evidence to show that the general conditions in Albania represented a personalized risk for him. In other words, the country condition evidence could not establish a personalized risk given Mr. Smajlaj's profile. It is trite law that general documentary evidence alone is not enough (*Begum v Canada (Citizenship and Immigration)*, 2024 FC 1517 at para 34; *Rodriguez Sanchez c Canada (Citoyenneté et Immigration)*, 2023 CF 426 at para 46; *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 672 at para 17; *Ayikeze v Canada (Citizenship and Immigration)*, 2012 FC 1395 at para 22).

[30] In the end, none of the errors alleged by Mr. Smajlaj causes me "to lose confidence in the outcome reached by the decision maker" (*Vavilov* at para 122).

IV. Conclusion

[31] For the reasons set forth above, Mr. Smajlaj's application for judicial review is dismissed. I am satisfied that the Officer reasonably assessed the evidence in concluding that Mr. Smajlaj

would not be at risk upon his return to Albania. The Decision bears the hallmarks of justification, transparency, and intelligibility required under the standard of reasonableness.

[32] There are no questions of general importance to be certified.

JUDGMENT in IMM-11949-24

THIS COURT’S JUDGMENT is that:

1. This application for judicial review is dismissed, without costs.
2. There is no question of general importance to be certified.

“Denis Gascon”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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