Federal Court  Cour fédérale

Date: 20250512

Docket: IMM-11300-23

Citation: 2025 FC 872

Ottawa, Ontario, May 12, 2025

PRESENT: The Honourable Madam Justice Tsimberis

BETWEEN:

SARA TAHOONCHITORGHABEH
and
MAHDI GHAVAMI
and
ATRISA GHAVAMI

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is the judicial review of a decision of a visa officer [Officer] dated August 14, 2023 [Decision] refusing the application for a study permit of Sara Tahoonchitorghabeh [Principal Applicant or PA], as the Officer was not satisfied that the PA (1) would leave Canada at the end

of her stay, pursuant to s 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR], and (2) had met the requirements under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. As a result, the Officer refused the application for an open work permit under the Temporary Foreign Worker Program of the Principal Applicant's spouse, Mahdi Ghavami [Associate Applicant], and the application for a study permit of their daughter, Atrisa Ghavami [Dependent Applicant], [collectively, Applicants]. The Officer was not satisfied the Associate Applicant and Dependent Applicant would leave Canada at the end of their stays, as the purpose of their visit to Canada was not consistent with a temporary stay given the details provided in their application, as required by the IRPR.

[2] For the reasons that follow, this Court allows this application for judicial review.

II. Factual Background

[3] The PA, her spouse, the Associate Applicant, and their daughter, the Dependent Applicant, are citizens of Iran. The PA applied for a study permit to complete the Master of Administrative Science: Human Resources Administration [Program] at Fairleigh Dickinson University in Vancouver, British Columbia, a designated learning institution [DLI]. The PA's studies were to commence on September 5, 2023, and end on April 30, 2025.

[4] In the PA's Affidavit dated March 26, 2024, she disclosed that, on or about July 5, 2022, the Applicants submitted their first applications that were denied in 2022. The matter was settled after an application for leave and judicial review was filed in this Court and was sent to be reviewed by a different Immigration, Refugees and Citizenship Canada [IRCC] visa officer. On

July 14, 2023, the PA received a letter from IRCC giving her 30 days to provide additional updated documentation for a redetermination. On August 6, 2023, the PA updated her documents, including but not limited to a job offer confirming her promotion, a police clearance certificate and a curriculum vitae.

[5] In her first accompanying statement of purpose letter, the PA outlines her academic background and work experience, explains her choice of studying at the DLI and that she plans to return to work at the Mehr Sajjad Educational Institute in Iran [Employer], as she will be promoted to the position of human resources manager with a significant increase in her salary upon the completion of her studies. The PA further explains her deep ties to Iran through her emotional bond with her parents; her family responsibilities since her parents are aging and she will provide them with emotional support and manage their assets; her long-term career plans; her and her spouse's deep commitment to their cultural values; and her financial and property ownership in Iran as she and her spouse own real estate and financial assets in Iran, requiring their presence for management.

[6] In her updated accompanying statement of purpose letter dated August 6, 2023, the PA emphasizes her strong family ties, including a moral responsibility to care for aging parents, a supportive spouse whose presence is highly important for her, and a teenage daughter who requires parental presence from both her parents. The PA attached other documents to her application including an updated work experience letter from the Employer, confirming that the PA has been working as an English Teacher on a full-time working basis since June 15, 2020, and earns 79,254,200 Iranian Rials per month. The PA also submitted an updated job offer letter

from her Employer fully supporting her decision to pursue higher education in Canada and giving her a leave of absence for 2 years. The letter confirms that, upon the completion of her studies, a job promotion will be offered to the PA to become the "manager of office of human resources" with a 75% increase in salary and insurance, and an ownership of 15% in the company's shares.

III. Decision Under Review

[7] On August 14, 2023, IRCC issued the Officer's Decision to refuse the PA's study permit application. In that letter, the Officer found that they were not satisfied that the PA will leave Canada at the end of their stay as required by s 216(1)(b) of the IRPR based on the following two factors:

a. The purpose of her visit to Canada is not consistent with a temporary stay given the details she provided in your application.

b. The PA does not have significant family ties outside Canada.

[8] The relevant Global Case Management System [GCMS] notes are part of the Decision (*Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at para 44) and are reproduced below:

> I have reviewed the application for re-determination. After re-opening the application, PA was given 30 days to provide updated documentation. PA provided updated proof of funds, proof of tuition payment and updated LOA. I have reviewed all the documentation provided for this application. Summary of key findings below: As for purpose of visit, PA is applying for a Master of Administrative Science: Human Resources Administration at Fairleigh Dickinson University Vancouver. Previous university studies: Bachelor's in TEFL. Currently employed as a English Teacher. I note that PA has paid USD $15,284.00 tuition fee to the intend DLI. However, I have given less weight to the positive factors, for the following reasons:

> Statement of purpose and employment offer reviewed and considered. PA provided a generalized explanation and did not provide any details on how the proposed studies would benefit PA's career path or why Canadian studies, at a high tuition, were necessary and beneficial. With regards to the PA's job offer, employment letter only mentions a promotion and an approved leave for 2 years. Employer did not explain why an international degree is required for the new position. PA will be accompanied by spouse and dependent child. The ties to their home country are weaken 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. 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.

[9] On the same date, August 14, 2023, the IRCC issued two other letters of refusal of the Associate Applicant's work permit application under the Temporary Foreign Worker Program and the Dependent Applicant's study permit application. The Officer found they were not satisfied that they will leave Canada at the end of their stay as required by s 200(1)(b) of the IRPR for the Associate Applicant and s 216(1)(b) of the IRPR for the Dependent Applicant, based on the following factor:

> The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.

IV. Relevant Legislation

[10] The relevant provisions of the IRPA and the IRPR are reproduced hereinafter:

IRPA

Application before entering Canada

11 (1) A foreign 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.

[…]

Work and study in Canada

30 (1) A foreign national may not work or study in Canada unless authorized to do so under this Act.

Authorization

(1.1) An officer may, on application, authorize a foreign national to work or study in Canada if the foreign national meets the conditions set out in the regulations.

[…]

IRPR

Issuance of Study Permits

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 [...]

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9; […]

V. Issue and Standard of Review

[11] At the hearing, the Applicants agreed to abandon their arguments regarding the issue of a breach of procedural fairness that was raised in their Further Memorandum of Fact and Law.

There is only one issue before the Court: whether the Decision is unreasonable considering the evidence before the Officer?

[12] The parties agree that the merits of the Decision are reviewable on the presumptive standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 10, 25).

[13] To avoid intervention on judicial review, the decision must bear 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).

[14] The Court must avoid reassessing and reweighing the evidence before the decision maker; a decision may be unreasonable, however, if the decision maker "fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at paras 125-126).

[15] The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100). For the reviewing court to intervene, the party challenging the decision must satisfy the court that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" and that the alleged flaws must be "more than merely superficial or peripheral to the merits of the decision" (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v*

Mason, 2021 FCA 156 at para 36). The reviewing court must ultimately be satisfied that the decision maker's reasoning "adds up" (*Vavilov* at para 104).

VI. Analysis – The Decision was unreasonable considering the evidence before the Officer

A. *Significant family ties outside Canada*

[16] In its Decision to refuse the PA's application, the Officer was not satisfied that the PA would leave Canada at the end of her stay because the PA has not established that she would leave Canada based on the factor that the PA does "not have significant family ties outside Canada". In the GCMS Notes, the Officer indicates that:

> PA will be accompanied by spouse and dependent child. 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.

[17] In my view, the Decision is unreasonable as the Officer failed to justify their conclusion that the PA does not have significant family ties outside Canada considering the record before them clearly indicating that both the PA and her spouse have parents and siblings in Iran.

[18] While the Court agrees with the Respondent that it may have been open and reasonable for the Officer to weigh the PA's ties to her spouse and daughter who would be in Canada as more likely to pull the PA towards staying in Canada (*Ali v Canada (Citizenship and Immigration)*, 2023 FC 608 at para 11), the Officer must also weigh this against the evidence in the record indicating that the PA has family ties in Iran pushing them to returning to Iran. Instead, the Officer considered the pull towards staying in Canada but did not consider the push

factors towards returning to Iran. The Officer stopped its analysis at the accompanying spouse and daughter that they term “immediate family” and did not complete the weighing analysis.

[19] In the similar case of *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC 1083 [*Vahdati*], Justice Strickland found the decision before her under judicial review was unreasonable because:

> [10] In my view, while it may be relevant to consider that the Spouse intends to accompany the Applicant to Canada (*Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at paras 15-16), and, even if it is reasonable to infer from this that the Applicant's family ties to Iran may be weakened, the problem in this case is that the Visa Officer ended their analysis there. The Visa Officer did not weigh this against: (1) the fact that all of the other members of the Applicant's and her Spouse's families will remain in Iran; (2) the fact that the Applicants have no family members in Canada; or (3) the other evidence in the record relevant to establishment such as the letter from the Applicant's employer. I agree with the Applicant that in this case the Visa Officer seems to have simply applied a broad generalization in reaching their finding as to a lack of establishment.

[20] In *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159 [*Masouleh*], Justice Ahmed held:

> [30] Secondly, I do not find that the Officer’s GCMS notes demonstrate a reasonable assessment of the Principal Applicant’s evidence pertaining to her family ties and other aspects of the Applicants’ establishment in Iran. The largely vague reasons are unclear as to how the Principal Applicant’s ties to Iran are weakened by her being accompanied by her husband and 4-year-old child to the extent that she would not return there after her studies, particularly considering the evidence demonstrating that a majority of her and her husband’s extended family reside permanently in Iran and they have financial assets in Iran.

[21] Similarly, in the case before me, all the PA's and Associate Applicant's extended family reside permanently in Iran.

[22] Justice MacDonald in *Jafari v Canada (Citizenship and Immigration*), 2023 FC 183 [*Jafari*] spoke to the logical conclusion from the Officer's reasoning, which makes it an unreasonable approach:

> [19] The logical conclusion from the Officer's reasoning is that no applicant coming to Canada with a spouse or immediate family member would ever have sufficient ties to their home country to be granted a visa in Canada. That is not a reasonable approach.
>
> [20] Having not addressed the key evidence on the Applicant's ties to Iran, the Officer engages in flawed reasoning by assuming that since the Applicant's wife is travelling with him, he will not return to Iran.

[23] And more recently in *Amlashi v Canada (Citizenship and Immigration)*, 2024 FC 1363, Chief Justice Crampton followed *Vahdati*, *Masouleh* and *Jafari* when he held:

> [23] It would have been reasonably open to the Officer to find that these various considerations did not constitute sufficiently strong ties to Iran to establish that Ms. Ashrafi Amlashi and her family would leave Canada at the end of her studies here. **However, at a minimum, the Officer needed to briefly state the basis for such a finding**. The Officer failed to do so.
>
> [24] Instead, **the Officer's notes simply focused on the fact that the family's ties to Iran were weakened by the fact that they would all be in Canada**, and that this would reduce the family's motivation to return home, given that they would all be together in this country.
>
> [25] The Officer was not required to address all of the ties to Iran that were identified by Ms. Ashrafi Amlashi: *Vavilov*, at para 128. However, it was unreasonable for the Officer to fail to engage and grapple with the most important ties that she had identified: *Masouleh v Canada (Citizenship and Immigration)*, 2023 FC 1159,

> at paras 30-35; *Jafari v Canada (Citizenship and Immigration)*, 2023 FC 183, at paras 18-19 [*Jafari*].
>
> [26] **It was also unreasonable for the Officer to have treated the family's plans to travel to Canada together as a decisive adverse factor in the Decision**: *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC 1083, at para 10; *Jafari*, at para19. Common experience suggests that Canadians who pursue studies abroad often travel there with their spouse and young children, and then return to this country. Taken alone, a foreign national's plans to do the same here do not provide a reasonable basis for concluding that they are unlikely to leave Canada at the end of their study period. This is particularly so given that the study permit regime specifically contemplates that applicants may bring multiple family members with them to Canada.
>
> [Emphasis added]

[24] Similarly, here, the Officer makes no mention of the PA's family (parents and siblings) or the spouse's family in Iran, or their lack of family ties in Canada other than the accompanying spouse and dependent child. In the GCMS Notes, the Officer's only reference to family ties is "PA will be accompanied by spouse and dependent child". As such, the Officer's Decision that the PA does "not have significant family ties outside Canada" is not justified in light of the factual record and is unreasonable as it lacks a rational chain of analysis (*Farzadniya v Canada (Immigration, Refugees and Citizenship)*, 2025 FC 615 at para 26, citing *Moradbeigi v Canada (Citizenship and Immigration)*, 2023 FC 1209 [*Moradbeigi*] at para 16).

[25] Given that the lack of family ties is one of the two factors relied upon by the Officer to deny the study permit application, this error is sufficiently central to the Decision to render it unreasonable in its entirety (*Vavilov* at para 100; *Yani v Canada (Citizenship and Immigration)*, 2024 FC 73 [*Yani*] at para 10, citing *Moradbeigi* at para 16).

B. *Purpose of Visit*

[26] Given the above error is sufficiently central to the Decision to render it unreasonable in my view and that the above analysis is determinative of the matter at hand, the Court has not considered whether the Officer erred in concluding that the purpose of the PA's visit is not consistent with a temporary stay (*Moradbeigi* at para 23).

VII. Conclusion

[27] The application for judicial review is allowed. The matter will be remitted for redetermination by a visa officer not previously involved in this matter.

[28] The Respondent acknowledged in its Memorandum of Argument that the Associate Applicant's work permit application and the Dependent Applicant's study permit application were dependent on the Principal Applicant's study permit. These other decisions are not before me, but this application is determinative of those applications. As the Decision before me is set aside, the related applications should also be redetermined by a different visa officer.

JUDGMENT in IMM-11300-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed.
2. The matter will be remitted for redetermination by a visa officer not previously involved in this matter.
3. There is no question for certification.

"Ekaterina Tsimberis"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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