Federal Court  Cour fédérale

Date: 20250604

Docket: IMM-7789-24

Citation: 2025 FC 1004

Toronto, Ontario, June 4, 2025

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

LEONARD UGOCHUK ONUMONU

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Mr. Leonard Ugochuk Onumonu, is a citizen of Nigeria, who arrived in Canada in 2017 and made a claim for refugee protection in Canada in which he indicated having been a member of the Indigenous People of Biafra [IPOB]. He was referred for an admissibility hearing before the Immigration Division [ID] pursuant to subsection 44(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*]. The issue to be assessed was whether he was inadmissible on security grounds under paragraph 34(1)(f) of the *IRPA*, for being a member of an

organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (b), namely, an organization engaging in or instigating the subversion by force of any government. His refugee claim has been suspended until a determination is made on his admissibility.

[2] Further to the admissibility hearing, the ID, through a detailed decision dated April 23, 2024, found the Applicant to be a person described in section 34 of the *IRPA*, and issued a Deportation Order against him [Decision]. He now seeks judicial review of the Decision by way of an order for a writ of *certiorari* quashing the Decision and an order for a writ of *mandamus* compelling a newly reconstituted tribunal to hold the admissibility hearing and costs.

[3] The Applicant does not contest the ID's findings that the IPOB is an organization under paragraph 34(1)(f) of the *IRPA* and he voluntarily admits that he was a member of the IPOB. However, he disagrees that there are reasonable grounds to believe that the IPOB has engaged in or instigated the subversion by force of the government of Nigeria. He further submits that the ID made numerous errors in fact and in law, misconstrued evidence, misconstrued arguments and breached natural justice, and that the Decision rendered raises issues of procedural fairness and reasonableness.

[4] Amongst the information filed by the Applicant in support of his application for leave and judicial review are two ID decisions in which the ID found that there was not enough evidence to reasonably believe that the IPOB had engaged in or instigated the subversion by force of the government of Nigeria. In the Applicant's view, the Decision under review is unreasonable as the

ID failed to consider these two prior decisions which ought to be applied based on the principle of judicial comity.

[5] In summary, Mr. Onumonu argues that because the IPOB is fighting for "human rights and the self-determination of the Igbo people", the IPOB's actions should not be considered to be engaging in or instigating the subversion by force of the Nigerian government.

[6] The parties agree that there are no credibility issues in this case. Moreover, there are no allegations that Mr. Omunomu himself engaged in or instigated the subversion by force of the government of Nigeria.

[7] That said, the Minister of Citizenship and Immigration [Minister] submits that the ID conducted a thorough assessment of the country condition evidence and reasonably found that the Applicant is inadmissible for membership in an organization which has engaged in subversion by force of the Nigerian government. The ID outlined in details the organization's violent rhetoric and attacks aimed at achieving independence for Biafra. The ID properly noted that an organization's motivation for its acts of subversion is not relevant to an assessment of whether or not those acts constituted acts of subversion. Thus, according to the Minister, the Applicant has failed to identify any reviewable error and therefore the Decision ought not to be disturbed as it was reasonable.

[8] At the hearing, the Applicant submitted two questions to be certified. The Respondent opposed the certification of these questions. Given the late filing, and under reserve, the Court allowed the parties to provide written submissions regarding these questions.

[9] For the reasons that follow, Mr. Onumonu's application for judicial review will be dismissed. Given the legislative dispositions and the record before this Court, the Court has not been convinced that the Decision is unreasonable. Moreover, the Court will not certify any questions.

II. Analysis

A. *Preliminary Issue*

[10] The Minister asserts that in his Memorandum, the Applicant raises a new issue that was not before the ID, namely that paragraph 34(1)(b) of the *IRPA*, due to its broad application, goes "against the very objective of the Act, to support international law and Canadian international interest".

[11] The Minister submits that it is generally inappropriate for this Court to consider, on judicial review, an issue that could have been but was not raised before the administrative decision maker despite having had the opportunity to do so (*Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at para 23 [*Alberta Teachers*]).

[12] The Court agrees with the Minister that the issue, as now raised by the Applicant, was not raised before the ID, although it could have been, and should therefore not be considered by the Court. There are multiple justifications to the general rule that an issue must first be raised to the decision maker. As stated by the Supreme Court of Canada: "This is particularly true where the issue raised for the first time on judicial review relates to the tribunal's specialized functions or

expertise." (*Alberta Teachers* at paras 24-25; see also *Manneh v Unifor*, 2022 FCA 107 at para 9; *Brown v Canada (Attorney General)*, 2024 FC 458 at para 19)

B. *Standard of Review*

[13] The parties agree that in the context of a judicial review of an ID decision, the applicable standard of review is reasonableness, as per the teachings of the Supreme Court of Canada in its landmark decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] (see also (*Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7 [*Mason*]).

[14] In *Chukwudi v Canada (Public Safety and Emergency Preparedness)*, 2023 FC 423 [*Chukwudi*], a case referred to by both parties involving IPOB, Justice Gascon provides a good summary of the role of a reviewing Court when the standard of review is reasonableness:

> [12] Reasonableness is the presumptive standard that reviewing courts must apply when conducting judicial review of the merits of an administrative decision (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. Reasonableness focuses on the decision made by the administrative decision maker, which encompasses both the reasoning process and the outcome (*Vavilov* at paras 83, 87). 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). The reviewing court must therefore consider whether the "decision bears the hallmarks of reasonableness — justification, transparency and intelligibility" (*Vavilov* at para 99).

> [13] 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 begin its inquiry by examining the reasons provided with "respectful attention," and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (*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).
>
> [14] The onus is on the party challenging the administrative decision to prove that it is unreasonable. Flaws must be more than superficial for a reviewing court to overturn an administrative decision. The court must be satisfied that there are "sufficiently serious shortcomings" (*Vavilov* at para 100). When the reasons contain a fundamental gap or an unreasonable chain of analysis, a reviewing court may have grounds to intervene.

C. *Relevant Provisions*

[15] Section 33 of the *IRPA* outlines the rules of interpretation for inadmissibility findings, including the applicable standard of proof that there be "reasonable grounds to believe":

DIVISION 4Inadmissibility	**SECTION 4Interdiction de territoire**
Rules of interpretation	Interprétation
33 The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.	33 Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.

[16] The ground for inadmissibility stated in the section 44 reports is found in paragraphs 34(1)(b) and (f) of the *IRPA*:

DIVISION 4 **Entering and Remaining in Canada**	**SECTION 4** **Interdictions de territoire**
Security	**Sécurité**
34 (1) A permanent resident or a foreign national is inadmissible on security grounds for	34 (1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :
(b) engaging in or instigating the subversion by force of any government;	b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;
(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).	f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b), b.1) ou c).

D. *Applicable Standard of Proof*

[17] When rendering the Decision, the ID noted that the standard of proof required is "reasonable grounds to believe". This is compliant with section 33 of the *IRPA*. The Supreme Court of Canada in *Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para 114 states that this standard "requires something more than a mere suspicion, but less than the standard applicable in civil matters of proof on the balance of probabilities".

[18] Citing *Oremade v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1077 at para 27, the ID also noted in its Decision that the jurisprudence has confirmed that "subversion by

force" does not require proof that the organization has in fact committed violent acts against the government, but that it must consider any act or process of overthrowing the government. The Court agrees. As summarized by Justice Gascon in *Chukwudi*:

> [18] … Subversion by force has been defined by the courts in a number of cases. According to the Federal Court of Appeal, "subversion" means "the act or process of overthrowing the government" (*Najafi v Canada (Public Safety and Emergency Preparedness)*, 2014 FCA 262 [*Najafi*] at para 65). In *Oremade v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1077 [*Oremade*], this Court held that the term "by force" is not strictly equivalent to "by violence;" rather, it "includes coercion or compulsion by violent means, coercion or compulsion by threats to use violent means, and (…) reasonably perceived potential for the use of coercion by violent means" (*Oremade* at para 27). In *Canada (Citizenship and Immigration) v USA*, 2014 FC 416 [*USA*], this Court further determined that subversion by force means "[any] act that is intended to contribute to the process of overthrowing a government, or most commonly as the use or encouragement of force, violence or criminal means with the goal of overthrowing a government, either in part of its territory or in the entire country" [emphasis in original] (*USA* at para 36). Subversion by force thus has an extensive meaning.

E. *The Decision is Reasonable*

[19] At the hearing, the Applicant raised several arguments that were not included in his Memorandum of Fact and Law. The Minister objected to these arguments, stressing that the Applicant had not filed a Further Memorandum and was therefore surprised by many arguments raised. The Court agrees with the Minister that several arguments were raised for the first time during the hearing and has thus only discussed arguments which were included in the Applicant's Memorandum, same for those that the Minister made responding representations.

[20] As previously stated, the Applicant admits having been a member of the IPOB and does not contest that the IPOB is an organization as construed by paragraph 34(1)(f) of the *IRPA*. The only question before this Court is whether it was reasonable for the ID to conclude that there were reasonable grounds to believe that the IPOB intended to subvert the government of Nigeria by force.

[21] To support his position that the Decision is unreasonable, the Applicant filed two ID decisions that he claims found that the IPOB did not engage in or instigate the subversion by force of the Nigerian government. However, as noted during the hearing, those two decisions did not make that determination. Instead, the ID panel's conclusion was that there was insufficient evidence to conclude that there were reasonable grounds to believe that the IPOB intended to subvert the government of Nigeria by force. There is no evidence in the record that the ID in this case had access to the exact same evidence that was filed by the parties in those two decisions such that a similar conclusion was inevitable, as suggested by the Applicant.

[22] Further, at the hearing the Applicant stressed that section 162 of the *IRPA* and the principle of judicial comity meant that the ID was bound to make similar findings of fact that those made in the two other ID decisions, unless the ID explicitly explained why it was not making those similar findings. The Court disagrees.

[23] First, the principle of judicial comity applies to questions of law, not findings of fact (*R v Sullivan*, 2022 SCC 19 at para 44; *Popovici v Canada (Citizenship and Immigration)*, 2023 FC 960 at para 25). Second, as mentioned above, it is not for this Court to reassess the evidence that

was before the ID in this case (*Vavilov* at para 125), nor the evidence before two other ID panels (which, in any case, is not before the Court), in an attempt to determine which panel was right. Third, as Justice Gascon notes at paragraph 28 of *Chukwudi*, another panel's conclusion cannot be blindly replicated: "subversion must be determined on a case-by-case basis in light of the available evidence". This Court is not bound by other ID decisions as the facts and evidence in each case before the ID may not be the same.

[24] Moreover, the ID was not bound to follow the legal findings of previous ID decisions (*International Longshore and Warehouse Union - Canada v British Columbia Maritime Employers Association*, 2024 FCA 142 at para 82 citing *Vavilov* at paras 131-132; *Canada (Attorney General) v National Police Federation*, 2022 FCA 80 at para 48). Thus, while it may have been preferable for the ID to address the two decisions submitted by the Applicant and explain why it did not find them compelling in this case, it was not unreasonable for the ID to reach a different conclusion as they were not binding authority. In fact, as noted by the ID, at paragraph 13 of its Decision, the Applicant himself cited *Chukwudi* at paragraph 28 and argued that "the Federal Court found that the notion 'of subversion must be determined on a case-by-case basis in light of the available evidence [and that] (c)ontradictory or mixed evidence about the IPOB can account for the presence of more than one reasonable outcomes.'"

[25] As such, this Court must instead determine if, in this case, the ID's conclusion that there was "reasonable grounds to believe" that the IPOB intended to subvert the government of Nigeria by force was reasonable based on the evidence before it and if the Decision, as a whole, "bears the hallmarks of reasonableness—justification, transparency and intelligibility" (*Vavilov* at para 99;

Lapaix v Canada (Citizenship and Immigration), 2025 FC 111 at para 43 [*Lapaix*]; *Zahw v Canada (Public Safety and Emergency Preparedness),* 2019 FC 934 at para 33 [*Zahw*]).

[26] In this case, the ID made numerous findings in support of its determination that the IPOB engaged in acts which fall under paragraph 34(1)(b) of the *IRPA*. These findings are well summarized by the Minister at paragraph 12 of their Further Memorandum of Argument, and are not contested by the Applicant:

> (i) the pursuit of secession can be considered a form of government overthrow, as the intention of the IPOB is to have the Nigerian government withdraw from Biafran territory;
>
> (ii) the use of force by an oppressed people seeking self-determination is not excluded from consideration under section 34(1)(b). Consequently, the ID need not consider evidence of the Nigerian government's acts of persecution, as such evidence is irrelevant;
>
> (iii) subversion by force can include violent acts, as well as threats of violence intended to subvert the government;
>
> (iv) the IPOB has engaged in two principal forms of subversion – its discourse and its violent acts;
>
> (v) regarding the IPOB's discourse, the organization has:
>
> - issued threats of violence and incitement to violence;
>
> - threatened that if the government fails to "give us Biafra, Somalia will look like a paradise, compared to what happened there";
>
> - stated it needs "guns and bullets" from America, and if it does not "get Biafra" everyone must die;
>
> - issued statements calling for the destruction of the state of Nigeria, declaring "Nigeria must die", "Nigeria will fall", and "Biafra will come or every will perish";

> - issued statements indicating that the IPOB was willing to engage in a war with the Nigerian state, including killing governors, police, or army members if any Biafrans are killed;
>
> (vi) regarding the IPOB's use of violence, the organization has engaged in a series of violent attacks and clashes with government forces, some of which have resulted in civilian deaths:
>
> - attacks attributed to IPOB have increased since its armed wing, the Eastern Security Network [ESN], was formed in December 2020;
>
> - serious fighting occurred between Nigerian forces and the ESN in January 2021, leading to a significant number of displaced persons;
>
> - in April 2021, it was reported that ESN members stormed a state police command, looted the armoury and torched the building, and then freed over 1,800 prisoners from a correctional centre;
>
> - in Southeast Nigeria, ESN was involved in the killing of dozens of security operatives and attacks on at least ten buildings, including prisons and police stations;
>
> - attacks on police stations and checkpoints have increased since March 2022, resulting in fatalities.

[27] Based on the evidence of violent rhetoric and acts before the ID, the Court is satisfied it was not unreasonable for the ID to conclude that the IPOB had engaged in subversion by force.

[28] Further, as submitted by the Minister, the Applicant argues that because the IPOB is fighting for "human rights and the self-determination of the Igbo people", its actions cannot be construed as subversion by force of the Nigerian government. The Applicant cites no jurisprudence to support this argument.

[29] Contrary to the Applicant's submission, and as argued by the Minister, the Federal Court of Appeal in *Najafi v Canada (Public Safety and Emergency Preparedness)*, 2014 FCA 262 [*Najafi*] and this Court in *Chukwudi*, held that an organization's motivation to oust a government by force is not relevant to the analysis under paragraph 34(1)(b) of the *IRPA*. What matters is the organization's intent to subvert a government by force (*Chukwudi* at para 20 citing *Zahw* at para 54). The Court further held that even the right to self-determination claimed by an oppressed people is not a sufficient consideration to exclude the use of force from the scope of paragraph 34(1)(b) (*Chukwudi* at para 20 citing *Najafi* at paras 46, 109).

[30] While the Applicant asserts paragraph 34(1)(b) of the *IRPA* should not capture those who fight for human rights and self-determination, the Minister submits that Parliament intended "subversion by force of any government" to have a broad application at the inadmissibility stage. This broad application does not lead to unreasonable results as the *IRPA* provides for "ministerial exemption to protect those whose admission to Canada would not be contrary to the national interest". Thus, the effects of this provision can be mitigated by an exemption from the Minister (citing *Najafi* at paras 78, 80-81, 89-91).

[31] At the hearing, the Applicant responded that a ministerial exemption was a highly discretionary decision from the Minister which was very difficult to obtain. As such, the Applicant argued that this argument was illusory. In reply, the Minister stressed that the case law, including *Najafi*, is clear that the existence of ministerial relief is sufficient to find that paragraph 34(1)(b) should be broad in its scope. The Court agrees and notes this Court in *Lapaix* recently summarized the Federal Court of Appeal's findings on this issue:

> [46] In *Najafi*, the FCA concluded that "Parliament intended for the provision to be applied broadly" (at para 80), and that the "legality" or "legitimacy" of the alleged acts was not relevant to the application of paragraph 34(1)(b) (at para 90). The FCA explained that the inadmissibility set out in section 34 had to be broad because Parliament provided authority to the Minister to exempt foreign nationals from inadmissibility if it is not contrary to national interest to do so. Thus, the legitimacy of a government's overthrow, in the context of a people ruled by a dictator for example, could be a relevant factor for the Minister to consider under section 42.1 of the IRPA, but it is not a relevant factor in the context of an inadmissibility analysis under section 34 (at para 90; see also *Oremade* at para 18). In an application under section 42.1, the Minster must review the facts of the case and balance them with other Canadian fundamental values, such as national interest and national security (at para 106). Insomuch as the "member" within the meaning of paragraph 34(1)(f) did not participate actively or in a sufficiently significant way in the activities the organization is accused of, or for other reasons, the Minister could consider a waiver of inadmissibility since it would not be contrary to national interest to do so. In other words, the lawful or unlawful nature of the subversive acts is irrelevant at the inadmissibility stage. The type of "government" targeted by the acts is also irrelevant: the words of the Act "do not on their face, imply a qualification of any kind with respect to the government in question" (*Najafi* at para 70). It is sufficient for the acts to have been committed with the intent to contribute to the process of overthrowing a government (*USA* at para 36).

[32] Lastly, the Minister notes that the Applicant made a passing reference to the *Charter* but includes no details of any *Charter* argument. The Court highlights the following passage from the Federal Court of Appeal in *Covarrubias v Canada (Minister of Citizenship and Immigration)*, 2006 FCA 365:

> [59] It is well established that Charter analyses should not, and must not, be made in a factual vacuum: *MacKay v. Manitoba*, 1989 CanLII 26 (SCC), [1989] 2 S.C.R. 357, at page 361. That is, the absence of a proper evidentiary basis to support alleged Charter violations is a fatal flaw to any application to declare a law unconstitutional.

[33] Thus, the Court is satisfied the Applicant's unsupported *Charter* argument cannot succeed.

III. Conclusion

[34] Based on the various findings of the ID in support of its determination that the IPOB had in fact engaged in acts which fall under paragraph 34(1)(b) of the *IRPA*, it was reasonable for the ID to conclude that the IPOB's violent rhetoric and actions were sufficient to establish reasonable grounds to believe that it intended to subvert the government of Nigeria by force.

[35] Moreover, I agree with the Minister that the Applicant has failed to point to specific errors or flaws in the Decision. The Applicant bore the burden of proving that the ID made a reviewable error when rendering the Decision (*Vavilov* at para 100). He did not meet this burden.

[36] In light of the reasons above, the application for judicial review will be dismissed.

IV. Proposed Certified Questions

[37] At the hearing, counsel for the Applicant presented two questions to certify. The Minister objected, arguing that the Court's Practice Guidelines required advance notice of a proposed question for certification at least five days before the hearing.

[38] Both the issue of the timing of these submissions and whether the questions should be certified were taken under advisement. Thus, under reserve of this Court's decision regarding

timing, counsel was provided with an opportunity to file written submissions on the proposed questions to certify, which are as follows:

i. Is the current legal interpretation and application of what constitutes "engaging in or instigating the subversion by force of any government" and the application of section 34(1)(b) of the *Immigration and Refugee Protection Act* (*IRPA*) incongruous with the Objectives of the *Act*, International Law, and the *Charter of Rights and Freedoms*, in particular because it is too broad?

ii. In light of the fact that s.162 of the *IRPA* states that each division of the Board, including the Immigration Division of the Immigration and Refuge Board, has sole and exclusive jurisdiction to hear and determine all findings of law and fact – when the Immigration Division makes a finding of fact and law pursuant to s. 34(1)(b) of IRPA, are tribunals considering the same question of fact and law bound to either follow their findings of FACT and LAW, or explain why in the case before them the findings of the Immigration Division are not to be applied. And is the failure to do so an error of fact and law, as well a breach of judicial comity?

[39] First, regarding timing, this Court agrees with the Respondent that the Court's *Consolidated Practice Guidelines for Citizenship, Immigration, and Refugee Protection Proceedings* (last amended on October 31, 2023) [*Guidelines*] are clear and provide that a party intending to raise a certified question must notify the other party at least five days prior to the hearing:

> 36. Pursuant to paragraph 74(d) of the IRPA, "an appeal to the Federal Court of Appeal may be made only if, in rendering judgment, the judge certifies that a serious question of general importance is involved and states the question". Parties are expected to make submissions regarding paragraph 74(d) in written submissions filed before the hearing on the merits and/or orally at the hearing. Where a party intends to propose a certified question, opposing counsel shall be notified at least five (5) days prior to the hearing, with a view to reaching a consensus regarding the language of the proposed question.
>
> [emphasis added]

[40] As Justice Gascon stated in *Medina Rodriguez v Canada (Citizenship and Immigration)*, 2024 FC 401:

> [44]… These *Guidelines* are there to be followed, and submitting a certified question at the last minute is not helpful to the Court nor fair for the opposing party. Moreover, a certified question is supposed to be a question of general importance. Arguably, these are not issues that should arise on the eve of judicial review or as an afterthought. In this case, counsel for Mr. Rodriguez has not provided any reason to explain the late submission of no less than five certified questions. Such a practice is strongly discouraged by the Court, and may be the basis for a refusal to consider the merits of a proposed certified question as it prejudices the other party as well as the Court and does not serve the interests of justice." In fact, there are many cases where this Court has refused to permit the Applicant to raise questions to certify presented in violation of the Court's Guidelines (see amongst others *Gardijan v Canada (Citizenship and Immigration)*, 2022 FC 421 at paras 52-55; *Adeosun v Canada (Citizenship and Immigration)*, 2021 FC 1089 at paras 75-77; *Rohan v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 1351 at paras 41-44).

[41] Further, in *Varela v Canada (Minister of Citizenship and Immigration)*, 2009 FCA 145, the Federal Court of Appeal stressed the overarching objective of subsection 74(d) of the *IRPA* in the statutory scheme, which includes timely considerations:

> [23] This provision fits within a larger scheme designed to ensure that a claimant's right to seek the intervention of the courts is not invoked lightly, and that such intervention, when justified, is timely.

[42] In the present matter, counsel for the Applicant has not provided any reasonable explanation regarding this late filing. Moreover, the proposed questions did not arise from any of the submissions made by the Respondent. The questions now proposed by counsel were squarely raised by the Applicant in their materials. As such, counsel for the Applicant could have served and filed their proposed certified questions at any point after leave was granted. Not only did counsel fail to file a Further Memorandum in this file, but they also waited until the morning of the hearing to raise these questions. Therefore, in the circumstances, the Court is not prepared to permit the Applicant to raise the proposed certified questions.

[43] That said, despite the Applicant's failure to comply with the *Guidelines*, this Court decided to consider the proposed questions and is of the view that none of the questions meet the criteria for certification as set out by the Federal Court of Appeal in *Lunyamila v Canada (Public Safety and Emergency Preparedness)*, 2018 FCA 22 at para 46. The Court fully agrees with the Minister's written submissions on this topic.

JUDGMENT in IMM-7789-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Danielle Ferron"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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