Federal Court  Cour fédérale

**Date: 20250605**

**Docket: IMM-7972-24**

**Citation: 2025 FC 1015**

**Toronto, Ontario, June 5, 2025**

**PRESENT: The Honourable Mr. Justice Southcott**

**BETWEEN:**

**ERZSEBET LAKATOS**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

# JUDGMENT AND REASONS

## I. Overview

[1] This is an application for judicial review of a decision [the Decision] by a Senior Immigration Officer [the Officer], dated February 26, 2024, which refused the Applicant's application for a Pre-Removal Risk Assessment [PRRA] that asserted risk in Hungary arising from the Applicant's profile and experiences as a Roma woman.

[2] As explained in further detail below, this application for judicial review is allowed, because the Decision is unreasonable in that it does not intelligibly analyze the availability of state protection to the Applicant.

## II. **Background**

[3] The Applicant is a citizen of Hungary, who first entered Canada in 2011 under her married name, following which she and her husband submitted a claim for refugee protection based on their Roma ethnicity. The claim was dismissed in 2011, and they departed Canada in 2012.

[4] The Applicant returned to Canada alone on September 30, 2022. She had not obtained authorization to return to Canada after previously being deported and failed to disclose to immigration authorities, when she entered Canada in 2022 under a new name (having divorced her husband), that she had previously been removed. However, her previous identity was identified after she attempted to make a second refugee claim in 2023 and a biometrics test matched her fingerprints with her previous immigration records.

[5] The Applicant was therefore found ineligible to make a refugee claim, because of her prior claim, and she submitted a PRRA application on August 28, 2023.

[6] The Applicant asserted fear of persecution and risk in Hungary due to her ethnicity and gender. She referenced systemic discrimination, increasing hate crime, anti-Roma actions including denial of state protection, as well as personalized harm that she had experienced. In

particular, the Applicant alleged that she had been repeatedly physically assaulted by her former husband and physically assaulted by her brother-in-law due to her Roma background. The Applicant asserted that, because of her ethnicity and gender, she was continually denied protection by the police in connection with these incidents.

[7] On February 26, 2024, the Officer issued the Decision that is the subject of this application for judicial review, refusing the PRRA application. The Officer concluded that, if she were to return to Hungary, the Applicant faced no more than a mere possibility of persecution, as described in section 96 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], and that she would not likely be at risk of torture, or be likely to face a risk to life or of cruel and unusual treatment or punishment, as contemplated by section 97 of the IRPA.

[8] The Applicant commenced this application for leave and for judicial review of the Decision on May 2, 2024, and subsequently sought a stay of removal to Hungary, which stay was granted by Justice Elizabeth Heneghan on May 9, 2024.

## III. **Decision under Review**

[9] In the Decision, the Officer noted that the Applicant had submitted a written narrative describing various instances of mistreatment and discrimination from police officers, as well as physical assault by her ex-husband and by her brother-in-law due to her ethnicity, with police officers refusing to take any of her reports for the same reason.

[10] However, the Officer found that the Applicant had provided insufficient objective evidence to establish a well-founded fear of persecution, as the Officer was not satisfied that the Applicant had demonstrated that she was refused any protection due to her Roma ethnicity. While noting the Applicant's statements, the Officer observed that she had not provided corroborating evidence, such as medical reports or letters of support.

[11] In relation to the attack by her brother-in-law, and taking into account the fact that the brother-in-law was married to a Roma woman, the Officer found that the Applicant had not provided sufficient evidence to establish that she was attacked due to her Roma ethnicity.

[12] The Officer found that the Applicant's experiences affected her quality of life but did not threaten her fundamental rights, and that the statements contained in her affidavit in support of her application did not point to an outright deprivation of educational or economic opportunities or social supports that seriously harmed her ability to subsist. In relation to the treatment the Applicant received when accessing police protection, the Officer found that, while this was unpleasant and unkind, it was indicative of discrimination that did not rise to the level of persecution.

[13] Referencing country condition evidence [CCE] submitted by the Applicant, the Officer acknowledged that the Roma population in Hungary faced societal attitudes that are inhospitable and intolerant but found that the CCE did not establish a link directly to the Applicant's personal circumstances. The Officer noted that it is only in certain circumstances, including potentially

where there is a cumulative element of a number of discriminatory measures, that discrimination will amount to persecution.

[14] The Officer also canvassed principles surrounding state protection and found that the Applicant had not established, with clear and convincing evidence, that the police in Hungary could not or would not provide adequate protection to her if called upon to do so.

[15] Noting that members of her family had made successful refugee claims in Canada, the Officer commented that each refugee hearing must nevertheless be judged on its own merits.

[16] In conclusion, the Officer refused the PRRA application, finding that neither section 96 nor section 97 of the IRPA applied.

## IV. **Issues and Standard of Review**

[17] The Applicant's submissions raise the following issues for the Court's determination:

A. Did the Officer err in assessing the PRRA application under sections 96 and 97 of the IRPA?

B. Did the Officer err in failing to recognize gender-based risks as persecution or in assessing state protection?

[18] The parties agree that the Court's consideration of these issues should apply the standard of reasonableness, as informed by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[19] In its written submissions, the Respondent also argued that the Court should dismiss this application for judicial review, without assessing its merits, due to misconduct by the Applicant in breaching Canadian immigration law upon returning to Canada. However, at the hearing of the application, the Respondent advised the Court that it was not pursuing that position.

## V. **Analysis**

[20] The Applicant advances a number of arguments in support of her position that the Decision is unreasonable. She argues that the Officer failed to consider the intersectional nature of her claim and failed to grasp the gravity and cumulative effect of discrimination and harm that the Applicant faced due to her ethnicity and gender. She also submits that the Officer unreasonably analysed the evidence surrounding the attacks that the Applicant experienced at the hands of her husband and brother-in-law and the lack of meaningful response by the police.

[21] The Respondent submits that the Applicant's arguments amount to a request for the Court to reweigh the evidence that was before the Officer, which is not the Court's role. The Respondent recognizes that the Decision is relatively cursory and that some of the language therein could be characterized as insensitive. However, the Respondent argues that these deficiencies do not undermine the reasonableness of the Decision. In relation to the evidence surrounding the Applicant's personal experiences of violence, the Respondent submits that the

Decision is reasonable, in particular related to the availability of state protection, in that the Officer intelligibly found that the Applicant's affidavit evidence, without any objective corroboration, was insufficient to support her assertion that she had been refused police protection due to her ethnicity.

[22] With respect to the Applicant's intersectionality and cumulative effects argument, I agree with the Respondent that the Applicant is asking the Court to reweigh the evidence. However, as explained below, I struggle with the intelligibility of the Officer's reasoning surrounding the availability of state protection.

[23] In her affidavit submitted in support of the PRRA application, the Applicant provided her evidence as to her unsuccessful efforts to obtain police protection in the context of the assaults by her ex-husband and her brother-in-law. She deposed that the police repeatedly refused to attend to assist her when her husband assaulted her, advising her that such incidents were family matters between the Roma and normal within Roma communities and that she should call the police only when blood flows. The Applicant's counsel notes that this language attributed to the police is consistent with CCE submitted in support of the PRRA application, which refers to police frequently advising Roma women who are victims of domestic violence to reconcile with the abuser and stating that they (the police) cannot do anything until blood flows.

[24] While the Applicant's affidavit explains that the police did attend following the assault by her brother-in-law (because the attending paramedics called them), she states that, upon

seeing that the Applicant and her sister were Roma, they refused to take a report and departed without taking any action.

[25] I do not find intelligible the Officer's conclusion, in the context of this evidence, that the Applicant had not demonstrated that she was refused any protection due to her Roma ethnicity. While the Decision refers to a lack of corroborative evidence, the Officer provides no analysis as to why, in the absence of corroboration, the Applicant's testimony is insufficient to support her assertion that she was denied protection due to her ethnicity.

[26] Moreover, the Officer expressly found that, while unpleasant and unkind, the treatment that the Applicant faced when accessing police protection was indicative of discrimination (although not rising to the level of persecution). If the Officer accepted that the incidents the Applicant described, in which she sought and was denied police protection, occurred and represented discrimination by the police (presumably based on her Roma ethnicity), it is difficult to understand how the Officer nevertheless concluded that her description of those incidents did not support a conclusion that she was refused protection based on her ethnicity.

[27] I therefore find that the Decision is lacking in intelligibility and is unreasonable. As I will grant this application for judicial review based on the above analysis, it is unnecessary for the Court to comment on the other arguments raised by the Applicant related to the reasonableness of the Decision.

[28] Neither party proposed any question for certification for appeal, and none is stated.

**JUDGMENT IN IMM-7972-24**

**THIS COURT'S JUDGMENT is that**:

1. This application is allowed, the Decision is set aside, and the matter is returned to another PRRA officer for redetermination.

2. No question is certified for appeal.

"Richard F. Southcott"
Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | IMM-7972-24 |
| **STYLE OF CAUSE:** | ERZSEBET LAKATOS v THE MINISTER OF CITIZENSHIP AND IMMIGRATION |
| **PLACE OF HEARING:** | TORONTO, ONTARIO |
| **DATE OF HEARING:** | JUNE 4, 2025 |
| **JUDGMENT AND REASONS:** | SOUTHCOTT J. |
| **DATED:** | JUNE 5, 2025 |

**APPEARANCES:**

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| David Vago | FOR THE APPLICANT |
| Kevin Doyle | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

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| Attorney General of Canada<br>Toronto, Ontario | FOR THE RESPONDENT |