Federal Court  Cour fédérale

Date: 20250709

Docket: IMM-13192-23

Citation: 2025 FC 1224

Ottawa, Ontario, July 9, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

MAKAN SHAMLOO GORJAEE
KHORSHID SARHADI
AZARAKHSH SHAMLOO GORJAEE
KAVEH SHAMLOO GORJAEE

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants Makan Shamloo Gorjaee, his wife Khorshid Sarhadi, and their two children are citizens of Iran. They seek judicial review of a decision of a Senior Officer [Officer]

with Immigration, Refugees and Citizenship Canada [IRCC] to refuse their application for permanent residence under the Express Entry Program.

[2] The Officer found there were reasonable grounds to believe Ms. Sarhadi was inadmissible as a danger to the security of Canada under s 34(1)(d) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. This had the effect of rendering the other Applicants inadmissible under s 42 of the IRPA.

[3] The Officer's conclusion that Ms. Sahardi presented a danger to the security of Canada was based on conjecture and speculation, rather than compelling and credible information. In addition, the Officer unreasonably discounted Ms. Sarhadi's letters of support solely on the ground that their authors were not disinterested.

[4] The application for judicial review is allowed, and the matter is remitted to a different IRCC officer for redetermination.

II. Background

[5] Between April 2010 and May 30, 2019, Ms. Sarhadi worked at the Institute for Research and Fundamental Sciences [IPM] in Iran. She was the head of the Radio Frequency Group at the Iranian Light Source Facility [ILSF] Project.

[6] The purpose of the ILSF Project was to build a synchrotron, a specific kind of particle accelerator. A synchrotron is commonly used to study the structural and chemical properties of materials at the molecular level. Counsel for the Applicants likens a synchrotron to a very powerful microscope.

[7] The Applicants applied for permanent residence on March 27, 2019. The Canadian Security Intelligence Service [CSIS] subsequently produced an admissibility assessment dated May 30, 2022. The assessment concluded there were reasonable grounds to believe Ms. Sarhadi was inadmissible to Canada under s 34(1)(d) of the IRPA. The application was then transferred to the IRCC Centre of Expertise in Security Cases in October 2022.

[8] On July 19, 2022, the IRCC Centre for Immigration National Security Screening provided an additional admissibility assessment recommending that the application be refused on security grounds. The assessment relied in part on the previous CSIS assessment.

[9] On March 2, 2023, Mr. Gorjaee received a procedural fairness letter from IRCC informing him that Ms. Sarhadi's work on the ILSF Project could render her inadmissible to Canada under s 34(1)(d) of the IRPA, thus making him inadmissible under s 42. The principal concern was that particle accelerators are a "dual use" technology that can be used to enrich fissile material and further the development of nuclear weapons. In addition, there appeared to be a connection between the IPM and the Atomic Energy Organization of Iran [AEOI]: the letter confirming Ms. Sarhadi's employment was signed by Javad Rahighi, a former director of the AEOI.

[10] The Applicants provided a response to the procedural fairness letter on May 1, 2023, consisting of statements from Ms. Sarhadi and Mr. Gorjaee, Ms. Sarhadi's updated *curriculum vitae*, and the submissions of legal counsel. The Applicants also provided letters of support from Professor Javad Rahighi of IPM, Professor Dieter Einfeld of the University of Applied Sciences in Emden, Germany, and Professor Mohammad Lamehi Rachti, formerly of the AEOI.

[11] On October 5, 2023, the Officer determined that Ms. Sarhadi was inadmissible to Canada pursuant to s 34(1)(d) of the IRPA, and the other Applicants were inadmissible pursuant to s 42.

III. Decision under Review

[12] The Officer's conclusion that the ILSF Project constituted a "dual use" technology was based primarily on two articles: one by Scott Kemp of the Massachusetts Institute of Technology titled "Nuclear Proliferation with Particle Accelerators", *Science and Global Security*, Vol 13: 183-207. 2005 [Kemp Article], and the other by Arlyn J. Antolak of Sandia National Laboratories, California titled "Overview of Accelerator Applications for Security and Defence", *Reviews of Accelerator Science and Technology* Vol. 8, (2015) 1–14 [Antolak Article].

[13] The Kemp Article summarized the history of particle accelerators as potential tools for enriching plutonium, and explained that an accelerator generating 16 MeV can use electrons to produce fissile material. The Officer noted that the ILSF would be capable of energizing electrons to 3,000 MeV, and concluded that synchrotrons could be used to create fissile material.

[14] The Officer also found that synchrotrons could assist in the production of radioisotopes and rocket components, and could be used as directed energy weapons (relying in part on the Antolak Article at pp 2, 6).

[15] The Officer considered whether Iran, as the operator of the ILSF Project, was a threat to Canada's security. After reviewing Canada's stance on nuclear proliferation, the historic use of sanctions against Iran concerning the development of nuclear weapons, and international relations between the two states, the Officer found Iran to be an adversary of Canada. Given its potential to create fissile material, the Officer also found the ILSF Project to be a threat to Canada's security.

[16] The Officer considered Ms. Sarhadi's senior role, her administrative and technical duties, and the importance of the Radio Frequency Group's work to the overall project. The Officer then concluded that Ms. Sarhadi's 10 years of employment at the ILSF Project rendered her inadmissible as a danger to the security of Canada.

III. Issue

[17] The Applicants challenge both the reasonableness and procedural fairness of the Officer's decision. In light of my conclusion respecting the reasonableness of the Officer's decision, it is unnecessary to consider the latter.

IV. Analysis

[18] The Officer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[19] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[20] The evidentiary standard of "reasonable grounds to believe" requires something more than mere suspicion, but less than proof on a balance of probabilities (*Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 [*Mugesera*] at para 114). Reasonable grounds exist where "there is an objective basis for the belief which is based on compelling and credible information" (*Mugesera* at para 114). This standard applies only to questions of fact (*Mugesera* at para 116).

[21] Findings of inadmissibility are governed by the following provisions of the IRPA:

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.
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 : […]
(d) being a danger to the security of Canada;	**d)** constituer un danger pour la sécurité du Canada;

[22] In *Suresh v Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1, the Supreme Court of Canada held that a fair, large, and liberal interpretation must be given to the definition of "danger to the security of Canada" (at para 85). A person constitutes a danger to the security of Canada if (at para 90):

> […] he or she poses a serious threat to the security of Canada, whether direct or indirect, and bearing in mind the fact that the security of one country is often dependent on the security of other nations. The threat must be "serious", in the sense that it must be grounded on objectively reasonable suspicion based on evidence and in the sense that the threatened harm must be substantial rather than negligible.

[23] The Applicants say there were no reasonable grounds for the Officer to believe that the ILSF Project constituted dual use technology. The articles cited by the Officer acknowledged

only a theoretical possibility that synchrotrons could generate fissile material or be used for non-peaceful purposes. The Applicants say the Officer's finding that the ILSF Project could further the development of nuclear or directed energy weapons was nothing more than conjecture.

[24] The Kemp Article confirmed the ability of particle accelerators to produce fissile material. However, Professor Kemp also noted that established nuclear states favoured reactors for reasons of cost and reliability. He suggested that an "entry-level proliferator" might consider particle accelerators to be advantageous because they are "safely outside the nonproliferation community's watchful eye". But he also acknowledged that accelerators have yet to be exploited by proliferators. He attributed this to the method's obscurity or the difficulty in acquiring appropriate accelerator technology (Kemp Article at p 186).

[25] Professor Kemp cautioned that these factors were changing. A growing body of literature had lessened the obscurity of accelerator-based transmutation, and there had been many advances in the commercial availability of accelerators and the development of inexpensive high-current accelerators for cancer therapy.

[26] Under the heading "History of Electronuclear Breeding", Professor Kemp summarized numerous attempts by the United States military to exploit "spallation" (high-energy particles moving through matter to release neutrons) for non-peaceful purposes, all of which were abandoned. He concluded his historical overview as follows (Kemp Article at p 187):

> Accelerator-based plutonium production has since been reconsidered numerous times. Canada had initial plans for an "electronuclear breeder" as early as 1951 and continued to entertain the concept through at least 1981; Russia explored

> systems in the 1960s and 1970s; and several U.S. national laboratories made proposals throughout the 1970s, including a multilab program called FERFICON that ran from 1975 to 1988. Most recently the United States and France independently considered producing tritium with particle accelerators.

[27] Professor Kemp did not identify any instance of a particle accelerator being used to produce nuclear or directed energy weapons. The use of this technology by "entry level proliferators" for non-peaceful purposes was only theoretical.

[28] The primary focus of the Antolak Article was the beneficial civilian uses of particle accelerators. Professor Antolak alluded to the "Star Wars" program in the 1980s, when the United States government sought to develop laser weapons as a defence against missiles. He noted that particle accelerators could potentially contribute to this technology, but he provided no examples of the technology being successfully used to develop nuclear or directed energy weapons (Antolak Article at p 2). Once again, the use of this technology for non-peaceful purposes was only theoretical.

[29] A statement of a decision maker that amounts to conjecture "is of no legal value, for its essence is that it is a mere guess" (*Hernandez Cornejo v Canada (Citizenship and Immigration)*, 2012 FC 325 at para 16). A decision maker cannot engage in speculation or make findings that lack an evidentiary foundation (*Bin Sun v Canada (Citizenship and Immigration)*, 2012 FC 1154 at para 8).

[30] Even if one accepts that dual use technology is that which has "potential applicability" in advancing the capabilities of foreign adversaries in relation to the development or enhancement

of weapons programs (Public Safety Canada, *Strengthening Canada's Counter-Proliferation Framework* (July 2022) at p 9), there was an insufficient "objective basis for the belief […] based on compelling and credible information" that the ILSF Project had this potential. The Officer's conclusion was therefore unreasonable.

[31] Furthermore, the Officer unreasonably discounted the Applicants' letters of support solely on the ground that their authors were not disinterested:

> The applicant has included letters from other scientists stating the ILSF does not have a dual-purpose. While these letters are written from professionals they are also from people with whom the applicant has worked or is close to, as such they do not have significant probative value and I do not give [them] more than a little weight.

[32] Professor Dieter Einfeld worked as an accelerator physicist at five different synchrotrons, and acted in an advisory role at two others. According to his letter of support:

> ILSF project aims to build a "Synchrotron-Light-Source" accelerator. In such accelerators, when electrons reach the designed speeds of light, they emit the whole spectrum from infrared to Xray, and it is this light which is used for scientific experiments. Therefore, this type of accelerator is designed so that electrons do not collide with the other particles. This is the main reason it is not related to a scientific nuclear program, peaceful or otherwise. Synchrotron Light Sources can't be used for nuclear programs.

[33] The letter from Professor Javad Rahighi concluded as follows:

> I would like to stress that Mrs. Sarhadi's work as the head of the [Radio Frequency] group at the ILSF project had no relation, direct or indirect, and could not be of any use directly or consequentially

> to any program related to nuclear energy, nuclear fuel production, or anything similar.

[34] Professor Mohammad Lamehi Rachti said the following in his letter of support:

> […] I would like to clarify that the ILSF project has no possible dual use and no such aspect has ever been considered, discussed or envisaged for it to the best of my knowledge. I helped ILSF as an advisor on occasion due to my expertise in the field of physics. I have been admitted to Canada and already interviewed about my own job during the application process and I understood that it was clarified that my own job at the AEOI had nothing to do with the nuclear program. I shall mention that I retired from AEOI around 6 years ago and am no longer an advisor to ILSF either.
>
> I can further confirm that ILSF project is a general scientific project similar to many other synchrotron light sources in Europe, Asia and North America, including Canada. Moreover, Mrs. Sarhadi's work there was specifically in the field of electronic engineering and as such this is a general field of expertise in which thousands of students graduate every year in Iran. Her job there had no possible dual use for any nuclear (peaceful or otherwise) or any other military program.

[35] An officer cannot discard experts' opinions without giving at least one reason that withstands probing examination (*Alijani v Canada (Citizenship and Immigration)*, 2016 FC 327 at para 23; *Curry v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1350 at para 4). A witness's interest in the outcome of a proceeding can be a relevant factor in assessing the weight that should be given to that witness's evidence. However, the Court will intervene when decision makers have diminished the value of evidence for this reason alone, and without meaningful consideration of other factors potentially affecting the weight of the evidence (*Alexander v Canada (Citizenship and Immigration)*, 2021 FC 762 at para 65 and cases cited therein).

[36] The Officer's decision was therefore unreasonable.

V. Conclusion

[37] The application for judicial review is allowed, and the matter is remitted to a different IRCC officer for redetermination. None of the parties proposed that a question be certified for appeal.

VI. Costs

[38] The Applicants seek costs. Rule 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 provides as follows:

Costs	**Dépens**
22 No costs shall be awarded to or payable by any party in respect of an application for leave, an application for judicial review or an appeal under these Rules unless the Court, for special reasons, so orders.	**22** Sauf ordonnance contraire rendue par un juge pour des raisons spéciales, la demande d'autorisation, la demande de contrôle judiciaire ou l'appel introduit en application des présentes règles ne donnent pas lieu à des dépens.

[39] The Applicants submitted their application for permanent residence six years ago. They did not receive the procedural fairness letter from IRCC until they sought *mandamus* from this Court. They say the Officer's decision gave rise to a reasonable apprehension of bias, because he described Iran as an "adversary" of Canada.

[40] The threshold to establish "special reasons" is high (*Jahazi v Canada (Citizenship and Immigration)*, 2024 FC 2072 [*Jahazi*] at para 23; *Saeed v Canada (Citizenship and Immigration)* 2024 FC 129 at para 60). Special reasons may include the nature of the case and the behaviour of the parties or their counsel (*Jahazi* at para 23; *Ndungu v Canada (Citizenship and Immigration)*, 2011 FCA 208 at para 7). A costs award may be justified if a party has unnecessarily or unreasonably prolonged legal proceedings, or acted in a manner that was unfair, oppressive, improper or actuated by bad faith (*Singh v Canada (Citizenship and Immigration)*, 2022 FC 1643 at para 45; *Oladele v Canada (Citizenship and Immigration)*, 2022 FC 1161 at para 52; *Ndererehe v Canada (Citizenship and Immigration)*, 2007 FC 880 at paras 28-28).

[41] It has not been necessary in this application for judicial review to determine the Applicants' allegation of bias. Suffice it to say that the threshold for a finding of real or perceived bias is high. Such an allegation calls into question not only the personal integrity of the decision maker, but the integrity of the administration of justice generally. Allegations of bias are serious, and should not be made lightly (*R v S (RD)*, 1997 CanLII 324 (SCC) at para 113). The unfounded assertion of bias in this case does not justify an award of costs.

[42] The delay in the processing of the Applicants' applications for permanent residence has been lengthy. But the circumstances underlying the applications are not the usual ones. The preparation of the admissibility assessments required due care and attention. Procedural fairness demanded that the Applicants be given notice of the concerns respecting Ms. Sahardi's admissibility and a reasonable opportunity to respond. The motion by the Attorney General of

Canada for an order pursuant to s 87 of the IRPA for non-disclosure of portions of the certified tribunal record was granted by this Court.

[43] For all of these reasons, this is not an appropriate case for an award of costs.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed, and the matter is remitted to a different IRCC officer for redetermination.

2. No costs are awarded.

"Simon Fothergill"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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