

Federal Court



Cour fédérale

**Date: 20200131**

**Docket: IMM-3718-19**

**Citation: 2020 FC 181**

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

**Ottawa, Ontario, January 31, 2020**

**PRESENT: The Honourable Madam Justice Roussel**

**BETWEEN:**

**CHERIF MAHAMAT HISSEINE  
ABOUBAKAR**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Background

[1] The applicant, Cherif Mahamat Hisseine Aboubakar, is seeking judicial review of a decision rendered by the Immigration Division [ID] of the Immigration and Refugee Board of Canada on May 24, 2019. The ID found that the applicant was inadmissible to Canada under

paragraphs 34(1)(b) and 34(1)(f) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] The applicant was born in Saudi Arabia but is not a citizen of that country. He is a citizen of Chad and is of Gorane ethnicity. He lived in Saudi Arabia until he was admitted as a visitor into the United States on September 5, 2016.

[3] On September 11, 2016, the applicant entered Canada and claimed refugee protection. An interview took place at the port of entry, and he filled out the IMM 5669 and IMM 0008 forms.

[4] On September 26, 2016, he signed his Basis of Claim Form [BOC Form]. In his account, he alleges that he is at risk because of his father's activities within the Union des forces pour la démocratie et le développement [union of forces for democracy and development] [UFDD], a movement created in 2006 whose goal was to overthrow the Chadian government. He also states that he himself has engaged in UFDD propaganda on social media.

[5] On February 21, 2017, the applicant met with an officer of the Canada Border Services Agency [CBSA] regarding his involvement with the UFDD.

[6] On June 5, 2017, the officer prepared a report under subsection 44(1) of the IRPA. He was of the opinion that the applicant was inadmissible on security grounds in accordance with paragraphs 34(1)(b) and 34(1)(f) of the IRPA. He noted that the applicant stated in his BOC Form that he had engaged in UFDD propaganda on social media. In addition, at the interview on

February 21, 2017, the applicant identified himself as a member of the UFDD. He reiterated that he had engaged in propaganda activities on social media for the UFDD and stated that he had taken part in recruiting people to fight for the UFDD and to fund the UFDD. According to the officer, the applicant is a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in subversion by force of a government. The report was referred to the ID for an admissibility hearing.

[7] On May 24, 2019, after a two-day hearing, the ID concluded that the applicant is inadmissible and issued a deportation order against him.

[8] The ID first concluded that acts committed by the UFDD starting in October 2006 in Chad amounted to subversion of the government in power at the time. It stated that the admitted purpose of overthrowing the President of Chad, the coup attempted between January 31 and February 2, 2008, the armed combat against national military forces beginning in 2006 and the occupation of territory by the UFDD in association with other armed groups leave no doubt about this.

[9] It then determined that the applicant was a member of the UFDD between 2006 and 2008. It found the applicant's testimony during the investigation not credible and was of the opinion that his testimony contradicted the statements in his BOC Form and at the interview on February 21, 2017. It concluded that the applicant's involvement with the UFDD went far beyond occasionally working as an interpreter for his father, but also included activities related to engaging in propaganda on social media, raising awareness among young Goranes and

fundraising, the goals of which were political and military in nature with the purpose of taking power in Chad.

[10] The applicant is seeking to have the decision set aside. He does not dispute the ID's finding that the UFDD sought to overthrow the government of Chad between 2006 and 2008. He also agrees that this is an organization described in paragraph 34(1)(b) of the IRPA. However, he challenges the ID's findings regarding his status as a member of that organization.

## II. Analysis

[11] Since the application for leave was granted before the Supreme Court of Canada decisions in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] and *Bell Canada v Canada (Attorney General)*, 2019 SCC 66, the Court issued a direction on January 13, 2020, inviting the parties to file additional submissions regarding the applicable standard of review in this case.

[12] In *Vavilov*, the Supreme Court established that there is a presumption that reasonableness is the applicable standard of review for administrative tribunal decisions. This presumption can be rebutted in two types of situations. Neither of these situation applies here (*Vavilov* at paras 10, 16–17).

[13] When the reasonableness standard of review is applied, “[t]he burden is on the party challenging the decision to show that it is unreasonable” (*Vavilov* at para 100). The Court's focus

“must be on the decision actually made by the decision maker, including both the decision maker’s reasoning process and the outcome” (*Vavilov* at para 83) 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). Close attention must be paid to a decision maker’s written reasons, and they must be read holistically and contextually (*Vavilov* at para 97). Reasonableness review is not a line-by-line treasure hunt for error (*Vavilov* at para 102). If “the decision bears the hallmarks of reasonableness—justification, transparency and intelligibility—and . . . it is justified in relation to the relevant factual and legal constraints that bear on the decision”, it is not for this Court to substitute its preferred outcome (*Vavilov* at para 99).

[14] Relying on the decision of Chief Justice Crampton in *B074 v Canada (Citizenship and Immigration)*, 2013 FC 1146 [*B074*], the applicant submits that the ID failed to consider the three factors that must be taken into account to assess a foreign national’s participation in an organization described in paragraph 34(1)(f) of the IRPA: (1) the nature of the person’s involvement in the organization, (2) the length of time involved and (3) the degree of the person’s commitment to the organization’s goals and objectives (*B074* at para 29). According to the applicant, the ID focused on the first factor and failed to analyze the length of time he was involved for and his degree of commitment. In his view, the failure to consider these factors, the third factor in particular, makes the ID’s decision unreasonable.

[15] The applicant also argues that the ID’s decision is unreasonable because it disregarded evidence that, according to him, showed that he was never a member of the UFDD. Among other

thing, he alleges that the ID ignored evidence that (1) his activities served only peaceful purposes and were not tied to the UFDD's military activities; (2) only his father was involved in fundraising activities; and (3) he was considered a member of the UFDD by Chadian authorities because of his father's activities and his Gorane ethnicity.

[16] There is no precise and complete definition of the term "member" within the meaning of paragraph 34(1)(f) of the IRPA. However, it is well established that this term should be given a broad interpretation, and actual or formal membership in an organization is not required. Participation or support for a group may suffice, depending on the nature of that participation or support (*Poshteh v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 85 at para 27; *Helal v Canada (Citizenship and Immigration)*, 2019 FC 37 at para 27; *B074* at paras 27–28).

[17] As specified by the Chief Justice in *B074*, in determining whether a foreign national is a member of an organization described in paragraph 34(1)(f) of the IRPA, some assessment of that person's participation in the organization in question must be undertaken taking into account the three criteria above (*B074* at para 29). However, paragraph 34(1)(f) of the IRPA does not require active participation in the organization because this would result in overlap with paragraph 34(1)(b) of the IRPA (*Tjiueza v Canada (Citizenship and Immigration)*, 2009 FC 1260 at para 31).

[18] In considering the reasons for the decision, the Court is of the view that the ID applied the correct analysis framework and that it examined and considered the three factors in question even though it did not specifically list them.

[19] With respect to the first factor, the applicant acknowledges that the ID examined the nature of his activities.

[20] With respect to the second factor, the ID examined the length of time the applicant was involved at paragraph 50 of its reasons. It referred to an excerpt from the applicant's interview on February 21, 2017, when the CBSA officer asked him for the dates when he was involved in activities for the UFDD. The applicant answered that his activities began in early 2006 and continued until the [TRANSLATION] "revolution" in 2008. Then, at paragraph 53, the ID concluded that the evidence showed that the applicant "was knowingly, significantly and regularly involved with the UFDD over a long period of time and that he was therefore a member of that organization from 2006 to 2008, when that armed group seems to have been the most active militarily in Chad." Even if the applicant disagrees with this conclusion, he cannot claim, in light of these paragraphs, that the ID failed to consider the length of time he was involved with the UFDD.

[21] With respect to the third factor, in its reasons, the ID referred to various excerpts of the applicant's interview of February 21, 2017, which demonstrates not only the applicant's activities but also his degree of commitment to the UFDD. The excerpts deal, among other things, with his activities related to propaganda on social media for the UFDD and mobilization, his role in fundraising for the UFDD's activities and the intended purpose as well as his personal motivation. After examining the applicant's various statements, the ID concluded at paragraph 52 that the applicant's involvement went far beyond simply having occasionally worked as an interpreter for his father and that, on the contrary, his propaganda, awareness-

raising and fundraising activities were political and military in nature, with the goal of taking power in Chad. In addition, it concluded at paragraph 53 that the applicant's activities were carried out "knowingly [for the benefit of] the UFDD", when the group was the most active militarily in Chad.

[22] The applicant may have preferred the ID to have explicitly listed the factors at the start of its analysis and to have dealt with the criteria using subheadings. However, there is no magic formula that the ID must use to explain the reasons for its decision.

[23] Furthermore, the Court cannot agree with the applicant's argument that the ID disregarded evidence that showed that he was never a member of the UFDD. The ID noted the various statements made by the applicant since his arrival in Canada, including the various versions regarding his activities with the UFDD. However, it preferred the version described by the applicant in his BOC Form and at his interview on February 21, 2017. It also explained why it found the applicant's testimony during the investigation not to be credible. It concluded that the applicant was a member of the UFDD between 2006 and 2008 based on several answers given by the applicant during his interview on February 21, 2017. For example, the applicant acknowledged that he identified himself as a member of the UFDD. Before the ID, the applicant argued that he was a de facto member because of his father's activities and because of his Gorane ethnicity. The ID correctly noted that, when the applicant was confronted at the interview on February 21, 2017, with the fact that he never specifically stated that he was a member of the UFDD in his BOC Form, the applicant did not deny being a member. Instead, he tried to justify that omission with his poor knowledge of English or a misunderstanding. Other answers



provided by the applicant at the same interview support the ID's conclusion. Although the applicant disagrees with the ID's assessment of the evidence, it is not for this Court to reassess and reweigh the evidence to reach a conclusion that is favourable to the applicant (*Vavilov* at para 125; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 at para 61).

[24] For all of these reasons, the application for judicial review is dismissed. No question of general importance is certified.

**JUDGMENT in IMM-3718-19**

**THIS COURT’S JUDGMENT** is as follows:

1. The application for judicial review is dismissed.
2. No question of general importance is certified.

“Sylvie E. Roussel”

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Judge

Certified true translation  
This 11th day of February 2020.

Francie Gow, BCL, LLB

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-3718-19

**STYLE OF CAUSE:** CHERIF MAHAMAT HISSEINE ABOUBAKAR v  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** JANUARY 29, 2020

**JUDGMENT AND REASONS:** ROUSSEL J.

**DATED:** JANUARY 31, 2020

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