

Federal Court



Cour fédérale

Date: 20200630

Docket: IMM-4847-19

Citation: 2020 FC 736

Ottawa, Ontario, June 30, 2020

PRESENT: THE CHIEF JUSTICE

BETWEEN:

**JOSE DANIEL AVILAN VILLEGAS
NELBA MARIA GARCIA VILLEGAS
VALENTINA PENA GARCIA
VICTOR AVILAN GARCIA
OCTAVIO AVILAN GARCIA**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] In some parts of the world, collecting information about the professional and personal lives of foreign journalists and then reporting it to the government can constitute complicity in

crimes against humanity that are being, or have been, perpetrated against those journalists by that government.

[2] A central question in this proceeding is whether it was unreasonable for the Refugee Protection Division [the “**RPD**”] of the Immigration and Refugee Board of Canada to conclude that there were serious reasons for considering that such collection and reporting activities by the principal Applicant, Mr. Jose Daniel Avilan Villegas, constituted complicity in such crimes.

[3] For the reasons that follow, I conclude that it was indeed unreasonable for the RPD to reach that conclusion, and to rely upon it to find that Mr. Villegas is excluded from refugee protection in this country pursuant to section 98 of the *Immigration and Refugee Protection Act* [the “**IRPA**”] and Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees* [the “**Refugee Convention**”].

[4] I also conclude that some of the findings and inferences made by the RPD in the course of reaching its above-mentioned conclusion were inextricably linked to two additional conclusions that it reached, as part of its alternative analysis. Those conclusions were that Mr. Villegas had not demonstrated that (i) there is a serious possibility that he, his spouse and their three children would be persecuted in Venezuela, or (ii) they would likely face a personalized risk of harm contemplated by section 97 of the IRPA, if required to return to that country.

[5] Accordingly, this Application for Judicial Review will be granted. The RPD’s decision will be set aside and remitted for redetermination by another decision maker.

II. Background

[6] Mr. Villegas, his spouse and their three children are citizens of Venezuela. They fled that country in May 2017 and claimed refugee protection in this country when they arrived at the Canada-U.S. border a few days later.

[7] They based their claims on their alleged fear of persecution and harm at the hands of the government. In support of those claims, Mr. Villegas states that he began to be mistreated while working at the Ministry of Communications and Information, where he was employed for over two years between 2008 and 2010. That mistreatment began after he refused to fully comply with orders to collect information regarding the professional and personal lives of foreign journalists.

[8] Mr. Villegas maintains that he was threatened when he quit that job, and that his telephone started to be tapped after he completed a master's thesis in 2015 that was critical of the writings of former President Hugo Chavez. He then began to notice that he "was being observed by less than desirable personalities". In 2016, a group of people tried to kidnap his daughter. A few weeks later, a window in his home was broken to "scare" him and his family. In 2017, before he fled to Canada, he was followed and photographed when he went to the Spanish Consulate. He was also told by a representative of the government that "we know where you live". In addition, he claims that when taking his children to school one day, someone said to him: "I'm going to see you full of bullets one day, cop", even though he is not a police officer. Finally, he asserts that he was under constant surveillance by someone who stood in front of the building where he and his family lived.

[9] Given the foregoing, Mr. Villegas fears that if he, his spouse and his children are required to return to Venezuela, their lives would be “at considerable risk” and he could be imprisoned for being a traitor.

III. The Decision Under Review

[10] In its decision, the RPD found that there were serious reasons to believe that Mr. Villegas’s direct involvement in collecting and reporting intelligence on foreign journalists, for purposes that may have included intimidation, threats and violence, constituted complicity in the Venezuelan state’s commission of crimes against humanity against journalists and political opponents. Based on that finding, the RPD concluded that Mr. Villegas is excluded from refugee protection under Article 1F(a) of the Refugee Convention, which is incorporated into Canadian law by section 98 of the IRPA.

[11] Notwithstanding that conclusion, the RPD proceeded to assess the fears of persecution and physical harm identified by Mr. Villegas, his spouse and their children. Ultimately, it found that they had not established that they are or would be perceived to be opponents of the Venezuelan government, or that they would face more than a mere possibility of persecution, as contemplated by section 96 of the IRPA. It also found that they had not established, on a balance of probabilities, that they would face a risk of harm described in section 97.

[12] I will note in passing that because the Applicants entered Canada from the United States, a country that is a party to an agreement described in paragraph 110(2)(d) of the IRPA, the

Refugee Appeal Division dismissed their appeal on the basis that it lacked the jurisdiction to hear it.

IV. **Relevant Legislation**

[13] Article 1F(a) of the Refugee Convention states the following:

1F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

1F. Les dispositions de cette Convention ne seront pas applicables aux personnes dont on aura des raisons sérieuses de penser :

a) Qu'elles ont commis un crime contre la paix, un crime de guerre ou un crime contre l'humanité, au sens des instruments internationaux élaborés pour prévoir des dispositions relatives à ces crimes;

[14] Pursuant to section 98 of the IRPA, a person referred to in Article 1E or 1F of the Refugee Convention “is not a Convention refugee or a person in need of protection”, within the meaning of the IRPA.

[15] The terms “Convention refugee” and “person in need of protection” are defined in sections 96 and 97 of the IRPA, respectively. The relevant text of those provisions is set forth in Appendix 1 to these reasons.

[16] Pursuant to subsection 107(1) of the IRPA, the RPD is required to accept a claim for refugee protection if it determines that the claimant is a Convention refugee or a person in need of protection. If it determines otherwise, it is required to reject the claim.

V. **Issues**

[17] Mr. Villegas has raised three separate issues regarding the RPD's analysis under Article 1F(a) of the Refugee Convention. In my view, those issues are best assessed in terms of whether the RPD's analysis under Article 1F(a) was unreasonable.

[18] Mr. Villegas has also raised two additional issues, which I have reformulated.

[19] Accordingly, the issues raised in this Application are:

- A. Was the RPD's analysis under Article 1F(a) of the Refugee Convention unreasonable?
- B. Was the RPD's analysis of the claims made under sections 96 and 97 of the IRPA unreasonable?
- C. Did the RPD breach Mr. Villegas's procedural fairness rights by failing to give him an opportunity to respond to certain evidence upon which it relied?

VI. **Standard of Review**

[20] In the absence of a legislated standard of review or a statutory right of appeal applicable to RPD decisions, the merits of such decisions are presumed to be reviewable on a standard of

reasonableness. That presumption can be overcome in certain circumstances that do not apply in respect of the first two issues of mixed fact and law raised above: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 53 and 69 [“**Vavilov**”].

Therefore, the presumption stands. (See also *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 53; and *Canada (Minister of Public Safety and Emergency Preparedness) v Duroseau*, 2012 FC 342 at para 14.)

[21] When reviewing a decision on a standard of reasonableness, the Court must approach the decision with “respectful attention” and consider the decision “as a whole”: *Vavilov*, above, at paras 84-85. Its review will be “concerned with *both* outcome *and* process”: *Vavilov*, above, at para 87. In this regard, the Court will assess whether the decision is appropriately justified, transparent and intelligible. In other words, it will consider whether it is able to understand the basis upon which the decision was made and then to determine whether it “falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law”: *Vavilov*, above, at paras 86 and 97.

[22] A decision which is appropriately justified, transparent and understandable is one that reflects “an internally coherent and rational chain of analysis” and “is justified in relation to the facts and the law that constrain the decision maker”: *Vavilov*, above, at para 85. It should also reflect that the decision maker “meaningfully grapple[d] with key issues or central arguments raised by the parties”: *Vavilov*, above, at para 128.

[23] The third issue raised in this Application, concerning the RPD's failure to give him an opportunity to respond to certain evidence upon which it relied, is a question of procedural fairness. In assessing such issues, the Court's focus is upon whether the alleged failure was procedurally fair, having regard to all of the circumstances: *Mission Institution v Khela*, 2014 SCC 24 at para 90; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.

VII. Assessment

A. *Was the RPD's analysis under Article 1F(a) of the Refugee Convention unreasonable?*

(1) Legal principles

[24] A crime against humanity is committed when each of the following four elements is satisfied:

1. An enumerated proscribed act was committed (this involves showing that the accused committed the criminal act and had the requisite guilty state of mind for the underlying act);
2. The act was committed as part of a widespread or systematic attack;
3. The attack was directed against any civilian population or any identifiable group of persons; and
4. The person who committed the proscribed act knew of the attack and knew or took the risk that his or her act comprised a part of that attack.

(*Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para 119.)

[25] Crimes against humanity can be committed either directly, or by complicity: *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 at paras 1-2 [**“Ezokola”**].

[26] An individual may be complicit in international crimes without a link to a particular crime. However, in the absence of a link to a particular crime, there must be a link between the individual’s impugned conduct and the criminal purpose of the perpetrator(s) of the crimes: *Ezokola*, above, at para 53. For the purposes of Article 1F(a) of the Refugee Convention, that link is established where there are serious reasons for considering that the individual in question “has voluntarily made a significant and knowing contribution to a group’s crime or criminal purpose”: *Ezokola*, above, at para 8. This can include “wider concepts of common design, such as the accomplishment of an organisation’s purpose by whatever means are necessary...”, so long as the individual is “aware of the government’s crime or purpose and aware that his or her *conduct* will assist in the furtherance of the crime or criminal purpose”: *Ezokola*, above, at paras 87 and 89 (emphasis in original).

[27] The standard of proof applicable to an assessment under Article 1(F)(a) of the Refugee Convention is “serious reasons for considering”. That standard lies somewhere between “mere suspicion” and the balance of probabilities standard applicable in civil matters: *Ezokola*, above, at para 101. The burden of proof lies with the person or entity invoking Article 1(F)(a), in this case the RPD: *Ndikumasabo v Canada (Citizenship and Immigration)*, 2014 FC 955 at para 30.

(2) Assessment

[28] Mr. Villegas raises a number of issues regarding the analysis conducted by the RPD in reaching its conclusion that he was complicit in crimes against humanity perpetrated by the Venezuelan government. However, as discussed below, it is only necessary to address the first of those issues.

[29] Mr. Villegas maintains that the RPD's analysis was unreasonable because it relied almost entirely upon evidence relating to events that occurred long after he left his employment with the Ministry of Communication and Information in 2010, and it focused on the government's treatment of journalists in general, rather than on its treatment of *foreign journalists*. Although the RPD did reference one item of evidence in respect of foreign journalists, that evidence referred to reports written in 2016 and 2017, and concerned actions that appear to have been taken long after 2010.

[30] In response, the Respondent submits that the RPD did in fact specifically address the crimes that were being committed against journalists during 2008-2010. The Respondent also asserts that it is inconsequential whether the journalists in question were Venezuelan nationals or foreign journalists for the purposes of assessing whether Mr. Villegas was complicit in crimes against humanity. The Respondent adds that the RPD also conducted an assessment of both domestic and foreign journalists.

[31] I disagree with the Respondent.

[32] Regarding the period covered by the evidence relied upon by the RPD, the reports quoted or cited in its decision were written in 2015 or later. With one exception, those reports addressed harassment, violence and other activities against journalists that clearly took place after 2010. The single exception concerned a passage in a report written in July 2017, which referred to an increased frequency of attacks, death threats and intimidation against journalists after the adoption of a particular law in 2004. However, there is no indication that such conduct occurred during the 2008-2010 period. The fact that the prior paragraph in the report discusses events that took place in October 2013 accentuates the uncertainty in this regard.

[33] Accordingly, there was little to no evidentiary foundation to the statements made at paragraphs 23, 26, 29 and 57 of the RPD's decision regarding the mistreatment of journalists during the period when Mr. Villegas was employed with the Ministry of Communication and Information. This, in and of itself, is sufficient to render the RPD's decision unreasonable. This is because the RPD did not identify any link between, on the one hand, Mr. Villegas' collection and reporting activities in 2008-2010, and on the other hand, (i) any crimes against humanity that were committed by the Venezuelan government against journalists, whether foreign or domestic, *during that period*, or (ii) any criminal purpose(s) of that government *during that period*.

[34] For greater certainty, I will add that the RPD did not establish any link between any of Mr. Villegas' collection and reporting activities during the 2008-2010 period and (i) any crimes against humanity that were committed at a later time, or (ii) any criminal purposes that the Venezuelan government may have had at a later time.

[35] Turning to the crimes against humanity that the RPD found to have been committed, the RPD's conclusions expressly concerned "journalists" in general. Moreover, with the exception of the single item of evidence mentioned at paragraph 29 above, the evidence relied upon by the RPD also related to journalists in general, rather than to foreign journalists.

[36] The single item of evidence referenced immediately above was written in 2017 and expressed "alarm over what has become a pattern of detention, harassment, and expulsion of foreign journalists who investigate events of public interest in [*sic*] Venezuelan soil or disseminate information on the management of government". A few paragraphs earlier in that report, it was stated: "For the most part, the detentions last for a few hours and appear to be aimed at intimidating journalists and media workers". I pause to observe that the RPD did not turn its mind to whether such detention, harassment and expulsion of journalists meets the definition of a crime against humanity. This is a separate problem that need not be further addressed.

[37] The evidence referenced immediately above contrasts sharply with the evidence about the treatment of "journalists" in general, which describes "physical attacks", "assaults", "violence" and "threats".

[38] Given that the difference between the evidence pertaining to foreign journalists and the evidence relating to "journalists" in general can be easily explained by the fact that an oppressive government may well believe that it can hide crimes against domestic journalists more easily

than it can hide crimes against foreign journalists, I consider the paucity of evidence relating to foreign journalists to be very significant.

[39] The logical leap from Mr. Villegas' activities in respect of *foreign journalists* to the crimes against humanity that the RPD found to have been committed against "journalists" in general, is apparent in the following passage:

[63] Not all of the principal claimant's activities and duties during his tenure with the Venezuelan Government fall under Article 1F(a). However, I find that the principal claimant's direct involvement in collecting intelligence on foreign journalists, and reporting this information to his superiors, the Office of the President and the Ministry of the Interior ...for purposes that may have included intimidation, threats and violence, was instrumental in the perpetration of the Venezuelan state's commission of human rights violations against journalists and political opponents, and their incitement of violence by aligned non-state actors, in order to stifle criticism and dissent.

[40] In the absence of any clear evidence of crimes against humanity or other human rights violations against foreign journalists during the period of his employment with the Ministry of Communications (2008-2010), this logical leap was unreasonable. This is because there was no link between Mr. Villegas's collection and reporting activities in relation to that identifiable group of persons, and the crimes that were found to have been committed by the Venezuelan government against journalists in general. There was also no link between those specific activities and any criminal purpose that the Venezuelan state may have had in the 2008-2010, or indeed later.

[41] Without such a link, the RPD's reasoning pathway has an important gap that renders its decision insufficiently justified and unintelligible: *Vavilov*, above, at paras 95-96 and 136. Stated

differently, it is not readily apparent how Mr. Villegas's collection and reporting of information with respect to the professional and personal lives of foreign journalists provided serious grounds for considering that he had voluntarily made a significant and knowing contribution to (i) the crimes against humanity identified by the RPD, or (ii) to any criminal purpose on the part of the Venezuelan government.

[42] I recognize that, in the document he provided upon his arrival at the port of entry in Canada, Mr. Villegas stated the following:

Later on during my time [at the Ministry of Communication and Information], I was asked to use the close relationships I had with journalists to collect information about their professional and personal lives. This information was used to determine if they were "safe" to be granted interviews and to visit key government leaders. I can only *assume* that the information collected for the Ministry could be used against journalists. It *is* known that national and international journalists are being attacked and mistreated because of their work. (Emphasis added.)

[43] Later, when he was interviewed by a representative of the Canada Border Services Agency, Mr. Villegas stated that he was not sure why the Ministry wanted information about foreign journalists, and he did not know what was done with the information he provided. As explained at paragraph 42 of its decision, when the RPD presented Mr. Villegas with the apparent inconsistency of his evidence on this point, he testified that while he now knows what the information *is* used for, he had no such knowledge at the time. He stated that this is why he used the present tense when he made the statement at the end of the quote immediately above.

[44] Having regard to the explanation provided by Mr. Villegas, I consider that the statements he made at his point of entry into Canada are not sufficient to render the RPD's analysis under

Article 1F(a) of the Refugee Convention reasonable. That is to say, that evidence, taken together with the other evidence considered by the RPD, did not provide a reasonable basis for concluding that there were serious reasons for considering that Mr. Villegas had been complicit in the crimes against humanity identified by the RPD, namely, crimes against “journalists”.

[45] For the reasons set forth above, the RPD’s analysis and conclusion on this point did not fall “within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law”: *Vavilov*, above, at para 86.

B. *Was the RPD’s analysis of the claims made under sections 96 and 97 of the IRPA unreasonable?*

[46] As a threshold matter, Mr. Villegas submits that RPD’s analysis of the claims he and his co-applicants made in their applications for refugee protection should not be allowed to stand because that analysis was tainted by, and impossible to extricate from, the RPD’s assessment of his exclusion under Article 1F(a) of the Refugee.

[47] I agree.

[48] This is readily apparent from the following passage, which appears at the outset of the RPD’s assessment of the merits of those refugee claims:

[70] This claim is based on the principal claimant’s profile and activities, as an actual or perceived opponent of the government. For the reasons already explained, I find the principal claimant embellished his testimony about his employment with the Venezuelan Ministry of Information and Communication, essentially exaggerating the extent to which he refused to comply

with orders, or was perceived by the state to be a dissident. This diminishes his credibility, and undermines the entire claim.

[49] Given the extent to which the RPD's unreasonable analysis under Article 1F(a) adversely impacted its assessment of the merits of the refugee claims made by Mr. Villegas, his spouse and his children, that assessment cannot be permitted to stand. To the extent that it was explicitly influenced by an unreasonable analysis, it too is unreasonable. Had it not been so influenced, the RPD's assessment of those refugee claims may well have been different.

[50] For this reason, this aspect of the RPD's decision cannot be said to fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law": *Vavilov*, above, at para 86.

C. *Did the RPD breach Mr. Villegas's procedural fairness rights by failing to give him an opportunity to respond to certain evidence upon which it relied?*

[51] Given the conclusions that I have reached in respect of the first two issues raised by Mr. Villegas and the co-applicants, it is unnecessary to address this issue.

VIII. Conclusion

[52] For the reasons set forth above, this application is granted. The RPD's decision to exclude Mr. Villegas from refugee protection pursuant to Article 1F(a) of the Refugee Convention, and to reject his and the co-applicants' refugee claims on their merits is set aside and remitted for reconsideration by a different decision maker.

[53] Prior to the hearing of this application, counsel to the applicants advised the Court that they intended to propose a question for certification in relation to the procedural fairness issue that they raised in this proceeding. However, given my determination that it is unnecessary to address that issue, the question proposed by the Applicants is not a proper one for certification. In brief, “[a]n issue that need not be decided cannot ground a properly certified question ... Nor will a question that is in the nature of a reference ...”: *Lunyamila v Canada (Public Safety and Emergency Preparedness)*, 2018 FCA 22 at para 46 (citations omitted). Therefore, no question will be certified.

JUDGMENT IN IMM-4847-19

THIS COURT’S JUDGMENT is that:

1. This application is granted. The Refugee Protection Division’s decision to exclude Mr. Villegas from refugee protection pursuant to Article 1F(a) of the Refugee Convention, and to reject his and the co-applicants’ refugee claims on their merits, is set aside and remitted for reconsideration by a different decision maker.
2. There is no serious question of general importance for certification pursuant to paragraph 74(d) of the *Immigration and Refugee Protection Act*.

“Paul S. Crampton”

Chief Justice

Appendix I – Relevant Provisions

Immigration and Refugee Protection Act, SC 2001, c 27:

Convention refugee

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

Person in need of protection

97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of

Définition de réfugié

96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

Personne à protéger

97 (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au

Article 1 of the Convention
Against Torture; or

sens de l'article premier de la
Convention contre la torture;

(b) to a risk to their life or to a
risk of cruel and unusual
treatment or punishment if

b) soit à une menace à sa vie
ou au risque de traitements ou
peines cruels et inusités dans le
cas suivant :

(i) the person is unable or,
because of that risk,
unwilling to avail themselves
of the protection of that
country,

(i) elle ne peut ou, de ce fait,
ne veut se réclamer de la
protection de ce pays,

(ii) the risk would be faced
by the person in every part
of that country and is not
faced generally by other
individuals in or from that
country,

(ii) elle y est exposée en tout
lieu de ce pays alors que
d'autres personnes
originaires de ce pays ou qui
s'y trouvent ne le sont
généralement pas,

(iii) the risk is not inherent
or incidental to lawful
sanctions, unless imposed in
disregard of accepted
international standards, and

(iii) la menace ou le risque
ne résulte pas de sanctions
légitimes — sauf celles
infligées au mépris des
normes internationales — et
inhérents à celles-ci ou
occasionnés par elles,

(iv) the risk is not caused by
the inability of that country
to provide adequate health
or medical care.

(iv) la menace ou le risque
ne résulte pas de l'incapacité
du pays de fournir des soins
médicaux ou de santé
adéquats.

Person in need of protection

Personne à protéger

(2) A person in Canada who is
a member of a class of persons
prescribed by the regulations
as being in need of protection
is also a person in need of
protection.

(2) A également qualité de
personne à protéger la
personne qui se trouve au
Canada et fait partie d'une
catégorie de personnes
auxquelles est reconnu par
règlement le besoin de
protection.

Exclusion — Refugee

**Exclusion par application de
la Convention sur les**

Convention

98 A person referred to in section E or F of Article 1 of the Refugee Convention is not a Convention refugee or a person in need of protection.

réfugiés

98 La personne visée aux sections E ou F de l'article premier de la Convention sur les réfugiés ne peut avoir la qualité de réfugié ni de personne à protéger.

United Nations Convention Relating to the Status of Refugees, 189 UNTS 150:

1F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

1F. Les dispositions de cette Convention ne seront pas applicables aux personnes dont on aura des raisons sérieuses de penser :

a) Qu'elles ont commis un crime contre la paix, un crime de guerre ou un crime contre l'humanité, au sens des instruments internationaux élaborés pour prévoir des dispositions relatives à ces crimes;

Crimes Against Humanity and War Crimes Act, SC 2000, c 24:

Definitions

6(3) The definitions in this subsection apply in this section.

crime against humanity means murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against

Définitions

6(3) Les définitions qui suivent s'appliquent au présent article.

crime contre l'humanité Meurtre, extermination, réduction en esclavage, déportation, emprisonnement, torture, violence sexuelle, persécution ou autre fait — acte ou omission — inhumain, d'une part, commis contre une population civile ou un groupe identifiable de personnes et, d'autre part, qui constitue, au moment et au lieu de la

humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (crime contre l'humanité)

genocide means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission. (génocide)

war crime means an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

perpétration, un crime contre l'humanité selon le droit international coutumier ou le droit international conventionnel ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (crime against humanity)

crime de guerre Fait — acte ou omission — commis au cours d'un conflit armé et constituant, au moment et au lieu de la perpétration, un crime de guerre selon le droit international coutumier ou le droit international conventionnel applicables à ces conflits, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu. (war crime)

génocide Fait — acte ou omission — commis dans l'intention de détruire, en tout ou en partie, un groupe identifiable de personnes et constituant, au moment et au lieu de la perpétration, un génocide selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des

(crime de guerre)

nations, qu'il constitue ou non
une transgression du droit en
vigueur à ce moment et dans ce
lieu. (genocide)

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-4847-19

STYLE OF CAUSE: JOSE DANIEL AVILAN VILLEGAS ET AL v MCI

PLACE OF HEARING: HELD BY TELECONFERENCE BETWEEN OTTAWA,
ONTARIO AND VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: MAY 25, 2020

JUDGMENT AND REASONS: CRAMPTON C.J.

DATED: JUNE 30, 2020

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