Federal Court  Cour fédérale

Date: 20200618

Docket: IMM-4869-19

Citation: 2020 FC 707

[UNREVISED CERTIFIED ENGLISH TRANSLATION]

Montréal, Quebec, June 18, 2020

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

JOSEFA IRAIDES DUGARTE DE LOPEZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Josefa Iraides Dugarte de Lopez, is a citizen of Venezuela. She seeks judicial review of a Refugee Appeal Division [RAD] decision dated June 28, 2019 [Decision]. The RAD confirmed the decision of the Refugee Protection Division [RPD] rejecting

Ms. Dugarte de Lopez's claim for refugee protection and denying her refugee or person in need of protection status under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], on the grounds that her account was not credible. As the basis for her claim, Ms. Dugarte de Lopez cited a risk of persecution in her country of origin because of her political opinion.

[2] Ms. Dugarte de Lopez contends that the RAD erred in three respects in its Decision: by rejecting the new evidence she presented, by failing to make an independent analysis of the record, and by not examining whether she faced a serious possibility of persecution in the future because of her political opinion. She requests that the Court set aside the Decision and remit the matter back to the RAD so that her appeal can be reassessed by a differently constituted panel.

[3] For the reasons stated below, I will allow Ms. Dugarte de Lopez's application. After considering the RAD's findings, the evidence presented to the tribunal and the applicable law, I am not satisfied that the RAD's refusal to accept the new evidence presented by Ms. Dugarte de Lopez was reasonable. In my opinion, this refusal based strictly on lack of relevance is not justified in light of the evidence available to the RAD, and the reasons do not allow me to understand the rationale for the refusal. This is sufficient to justify the intervention of the Court, and I must therefore, in the circumstances, remit the case to the RAD for reconsideration of the appeal made by Ms. Dugarte de Lopez. In light of this conclusion, I need not deal with the other two criticisms Ms. Dugarte de Lopez raised regarding the Decision.

II. Background

A. *Facts and Decision*

[4] The relevant facts may be summarized as follows. In support of her refugee protection claim presented in June 2018, Ms. Dugarte de Lopez alleges that she was targeted by the Venezuelan government, and the armed *collectivos* supported by the government, because of her political opinion in opposition to the current regime in Venezuela. She claims to be from a family which supports the Democratic Action party, and to have participated in the university movements of the party as well as in its medical division as a doctor. She maintains in particular that she was the victim of six attacks at the hands of the *collectivos*, which took place at her home and in her neighbourhood between 2001 and 2014. She states she fears for her safety because of her political opinion.

[5] In December 2018, the RPD rejected her refugee claim. According to its analysis, the RPD concluded that Ms. Dugarte de Lopez had not demonstrated that she was the victim of anything other than random crime. The RPD considered that the testimony of Ms. Dugarte de Lopez concerning the scope of her political activities was not credible and that she does not have the profile of a person likely to interest the Venezuelan regime. The RPD also determined that Ms. Dugarte de Lopez's multiple trips back and forth between Venezuela, the United States, Chile and Canada without claiming refugee protection, as well as her delay in seeking protection from Canada, constitute behaviour inconsistent with that of a person who claims to fear for her life.

[6] The applicant appealed the decision to the RAD. After conducting its analysis, the RAD reached a conclusion identical to the one rendered by the RPD. It determined that there was no serious possibility that Ms. Dugarte de Lopez would be persecuted in Venezuela for any of the Convention grounds or that she would be personally exposed to torture or to a risk to her life or a risk of cruel and unusual treatment or punishment.

[7] In its Decision, the RAD first considered several pieces of evidence that Ms. Dugarte de Lopez was trying to have admitted under subsection 110(4) of the IRPA. With the exception of five Facebook messages posted after the RPD decision, the RAD rejected the evidence presented by Ms. Dugarte de Lopez since, according to the RAD, it did not meet either the criteria of subsection 110(4) or the conditions set out in *Canada (Citizenship and Immigration) v Singh*, 2016 FCA 96 [*Singh*].

[8] The RAD then considered the grounds of the appeal raised by Ms. Dugarte de Lopez and analyzed in detail each of the six alleged errors, namely: (1) failure to take her age into account; (2) the application of an excessive burden of proof; (3) the unintelligible analysis of her subjective fear; (4) the erroneous analysis of her credibility and crime incidents; (5) the incorrect analysis of her political profile; and (6) the erroneous analysis of her actions and her return journeys to Venezuela. The RAD rejected each of these arguments and confirmed the RPD's conclusion that Ms. Dugarte de Lopez is not a Convention refugee or a person in need of protection.

B. *Standard of review*

[9] In accordance with the *Minister of Citizenship and Immigration v Vavilov*, 2019 SCC 65 [*Vavilov*], the new framework for the analysis of standards of review is now based on a presumption that reasonableness is the applicable standard that applies in all cases (*Vavilov* at para 16). Neither party disputes that the standard of reasonableness applies in this case, particularly with respect to the admissibility of new evidence before the RAD under subsection 110(4) of the IRPA.

[10] Where the applicable standard of review is that of 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; *Canada Post Corporation* at paras 2, 31). The reviewing court must consider "the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (*Vavilov* at para 15). The reviewing court must therefore ask itself "whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov* at para 99, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] at paras 47, 74 and *Catalyst Paper Corp. v North Cowichan (District)*, 2012 SCC 2 at para 13).

[11] It is not enough for the outcome of a decision to be justifiable. Where reasons for a decision are required, the decision "must also be *justified*, by way of those reasons, by the decision maker to those to whom the decision applies" (*Vavilov* at para 86). Thus, the review according to the reasonableness standard is concerned with both the outcome of the decision and the reasoning process followed (*Vavilov* at para 87). That said, the reviewing court must focus its attention on the very decision made by the administrative decision maker, in particular on its justification, and not on the conclusion which this Court would have reached itself had it been in the shoes of the decision maker.

III. Analysis

[12] In terms of new evidence, Ms. Dugarte de Lopez sought to admit the following documents: messages on her Facebook account between July 2017 and January 2019 as well as a message dated December 4, 2014, where she expressed her political thoughts in support of the Venezuelan opposition; newspaper articles and a photograph taken at a gathering of Venezuelans in Montréal in January 2019; and a self-declaration of her memory loss.

[13] The RAD accepted some of the Facebook messages posted by Ms. Dugarte de Lopez after December 2018, the date on which the RPD issued its decision refusing her refugee claim. However, the RAD refused the other documents, finding that they did not meet the criteria set out in *Singh*. More specifically, the RAD concluded that exhibits A-3 and A-4 relating to the January 2019 rally were not relevant "to the specific issues arising in this case which center on

whether Ms. Dugarte de Lopez has the kind of political profile that would put her at risk of persecution or serious harm if she were to return to Venezuela".

[14] Ms. Dugarte de Lopez criticizes the RAD for having unreasonably refused to admit this new evidence. She argues that, contrary to the opinion expressed by the RAD, exhibits A-3 and A-4 are indeed relevant to support her risk of persecution as well as her credibility because they corroborate her continuous participation in the political life of her country and her unrelenting opposition to the current regime. According to Ms. Dugarte de Lopez, the RAD's Decision is unreasonable in this regard because the test for admitting new evidence on the basis of relevance is to determine whether the evidence is capable of proving or refuting a fact which concerns the refugee protection claim.

[15] I agree with Ms. Dugarte de Lopez, and I consider that the RAD's handling of the new evidence was not reasonable in the circumstances, given the legal requirements and the reasons given by the RAD in the Decision.

[16] To accept the new evidence submitted by Ms. Dugarte de Lopez, the RAD had to determine whether it was admissible under subsection 110(4) of the IRPA and the jurisprudence that has interpreted it. I do not dispute that an appeal to the RAD is not intended to provide an opportunity to complete a deficient record submitted before the RPD or to answer the weaknesses identified by the RPD (*Singh* at paras 35, 51, 54; *Casilimas Murcia v Canada (Citizenship and Immigration)*, 2019 FC 1182 [*Casilimas Murcia*] at paras 49–50; *Eshetie v Canada (Citizenship and Immigration)*, 2019 FC 1036 at para 33). I also recognize that the role

of the Court is not to consider again whether the new evidence should have been accepted by the RAD, but to determine whether the RAD's findings rejecting the new the evidence were reasonable (*Akanniolu v Canada (Citizenship and Immigration)*, 2019 FC 311 at para 41). However, in the circumstances, I am of the opinion that the RAD did not adopt a reasonable interpretation of the relevance test and that, therefore, this is enough to vitiate the Decision and force a redetermination of Ms. Dugarte de Lopez's appeal.

[17] For new evidence to be admissible on appeal before the RAD, it must first fall into one of the three categories described in subsection 110(4) of the IRPA. This subsection empowers the RAD to collect new evidence that "arose after the rejection of the claim", that "was not reasonably available" or that the person "could not reasonably have been expected in the circumstances to have presented, at the time of the rejection" (*Singh* at para 34). Only new evidence that falls into one of these three categories is admissible (*Singh* at para 35). The Federal Court of Appeal noted that these three conditions had to be met, since they are "inescapable and would leave no room for discretion on the part of the RAD" (*Singh* at paras 34–35). In this case, there is no doubt that the exhibits submitted by Ms. Dugarte de Lopez met the criteria of subsection 110(4). There is no argument on that level.

[18] In addition, in *Singh*, the Federal Court of Appeal determined that the admissibility criteria for new evidence in pre-removal risk assessments are also applicable to the admissibility of new evidence in the context of subsection 110(4) of the IRPA (*Singh* at paras 49, 64). These admissibility criteria were developed in *Raza v Canada (Citizenship and Immigration)*, 2007

FCA 385 [*Raza*], and include the following elements: credibility, relevance, newness, materiality, and express statutory conditions. Paragraph 13 of *Raza* summarizes them as follows:

> . . .
>
> 1. Credibility: Is the evidence credible, considering its source and the circumstances in which it came into existence? If not, the evidence need not be considered.
>
> 2. Relevance: Is the evidence relevant to the PRRA application, in the sense that it is capable of proving or disproving a fact that is relevant to the claim for protection? If not, the evidence need not be considered.
>
> 3. Newness: Is the evidence new in the sense that it is capable of:
>
> proving the current state of affairs in the country of removal or an event that occurred or a circumstance that arose after the hearing in the RPD, or
>
> proving a fact that was unknown to the refugee claimant at the time of the RPD hearing, or
>
> contradicting a finding of fact by the RPD (including a credibility finding)?
>
> If not, the evidence need not be considered.
>
> 4. Materiality: Is the evidence material, in the sense that the refugee claim probably would have succeeded if the evidence had been made available to the RPD? If not, the evidence need not be considered.
>
> 5. Express statutory conditions:
>
> If the evidence is capable of proving only an event that occurred or circumstances that arose prior to the RPD hearing, then has the applicant established either that the evidence was not reasonably available to him or her for presentation at the RPD hearing, or that he or she could not reasonably have been expected in the circumstances to have presented the evidence at the RPD hearing? If not, the evidence need not be considered.
>
> If the evidence is capable of proving an event that occurred or circumstances that arose after the RPD hearing, then the evidence

> must be considered (unless it is rejected because it is not credible, not relevant, not new or not material).

[19] These criteria from *Raza* do not override but add to the three explicit conditions mentioned in subsection 110(4) of the IRPA, since they are necessarily implied from the purpose of the provision (*Singh* at para 63; *Nteta-Tshamala v Canada (Citizenship and Immigration)*, 2019 FC 1191 [*Nteta-Tshamala*] at para 24). Thus, in deciding whether new evidence is admissible, the RAD must determine whether the criteria of credibility, relevance, newness and materiality set out in *Raza* are met (*Singh* at para 49). However, the *Raza* criteria require certain adaptations when applied to subsection 110(4): thus, the newness component is redundant with subsection 110(4), and the materiality component is less strict since, because of its broad mandate, the RAD may accept new evidence which, although not determinative in and of itself, may have impact on the RAD's overall assessment of the RPD's decision (*Singh* at paras 46–47).

[20] Here, the RAD conducted a summary analysis of the new evidence put forth by Ms. Dugarte de Lopez and stated in the Decision that the exhibits were "not relevant to the specific issues arising in this case which center on whether Ms. Dugarte de Lopez has the kind of political profile that would put her at risk of persecution or serious harm if she were to return to Venezuela". The RAD was free to rely on one or more of the factors identified in *Raza* to reject the new evidence. Here, the RAD chose to anchor its Decision solely to the lack of relevance, and the RAD's reasons retained only this element to rule out the new evidence from Ms. Dugarte de Lopez.

[21] According to the Federal Court of Appeal, new evidence will be relevant if it is "capable of proving or disproving a fact that is relevant to the claim for protection" (*Raza* at para 13). At this stage, it is not a matter of deciding whether the probative value of the new evidence will be decisive one way or the other, but rather of identifying whether the evidence has the capacity to do so. However, the documents in question referred to the participation of Ms. Dugarte de Lopez in the political life of her country during a rally in January 2019 and to her commitment to the cause of the Venezuelan opposition. They aimed to establish her continued public opposition to the Venezuelan regime. On the face of it, the new evidence was clearly linked to the alleged political profile of Ms. Dugarte de Lopez, a crucial and determinative issue in her appeal to the RAD. The political involvement of Ms. Dugarte de Lopez, I must emphasize, was the reason for the persecution on which her refugee protection claim is based. As such, the case of Ms. Dugarte de Lopez clearly sets itself apart from the situations cited by the Minister, where the new evidence did not support any connection with the profile of the refugee protection claimant or with the incidents underlying a claim, or predated the RPD's decision (*Casilimas Murcia* at para 44; *Nteta-Tshamala* at paras 26–28).

[22] In these circumstances, I fail to see how it could be reasonable for the RAD to conclude that new evidence to corroborate Ms. Dugarte de Lopez's claims about her activities as an opponent of the regime suffered from a lack of relevance. The RAD could have fleshed out its analysis in this regard, but the reasons in no way explain how the new evidence would be unable to prove or deny Ms. Dugarte de Lopez's fear of persecution because of her political opinion. The RAD's conclusion regarding this new evidence is all the more troubling because, a few paragraphs later in its Decision, the RAD openly states that the questions to be decided in the

appeal before it are to determine "whether the evidence established that the incidents of criminality alleged by Ms. Dugarte de Lopez had a nexus to her political opinion" and "whether the evidence established that Ms. Dugarte de Lopez had the kind of political profile that would put her at risk if she were to return to Venezuela".

[23] This, in my view, constitutes an error significant enough to overturn the Decision because the acceptance of this new evidence could have had an impact on the RAD's ultimate conclusions. On appeal from RPD decisions, the RAD has a broad mandate and can intervene to correct errors of fact, law or fact and law. Its approach to new evidence put forward by a refugee protection claimant should reflect this. Admittedly, this does not mean that any new evidence must be accepted or will inevitably lead to a decision favourable to the appeal, but this undoubtedly requires the RAD to explain in satisfactory terms why new evidence which, on its face, is directly linked to the very essence of a refugee protection claim cannot be accepted solely in the name of a lack of relevance. By acting as it did in terms of the admissibility of Ms. Dugarte de Lopez's new evidence, the RAD veered outside the scope of a rational, coherent and logical analysis with regard to the law and the facts.

[24] Since *Vavilov*, the reasons given by administrative decision makers have taken on greater importance and are now the starting point for the analysis. They are the primary mechanism by which administrative decision makers demonstrate that their decisions are reasonable — both to the affected parties and to the reviewing courts (*Vavilov* at para 81). They serve to "explain how and why a decision was made", to demonstrate that "the decision was made in a fair and lawful manner" and to shield against "the perception of arbitrariness in the exercise of public power"

(*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision. The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para 97, *Canada Post Corporation* at para 31).

[25] I recognize that reviewing courts must show deference and pay respectful attention to the conclusions reached by administrative decision makers. I am aware that the reasons given in support of a decision do not have to be perfect or exhaustive. Indeed, the reasonableness standard of review is not concerned with the decision's degree of perfection but rather with its reasonableness (*Vavilov* at para 91). However, the reasons must be understandable and justified. An administrative decision maker has a duty to articulate its rationale in its reasons (*Farrier v Canada (Attorney General)*, 2020 FCA 25 [*Farrier*] at para 32). Admittedly, the lack of detail given in a decision does not necessarily make it unreasonable, but the reasons must enable the Court to understand the basis of the contested decision and to determine whether the conclusion holds water.

[26] A decision will also be unreasonable where the conclusion reached cannot follow from the analysis undertaken (*Vavilov* at para 103). This is especially the case when decisions have consequences that threaten an individual's life, liberty, dignity or livelihood or are likely to have significant personal repercussions (*Vavilov* at para 133). Here, I find it impossible to understand the RAD's reasoning, when reading the reasons together with the record, on a critical point of her appeal. The consequences of refusing new evidence strike at the heart of Ms. Dugarte de Lopez's refugee protection claim, and the principle of responsive justification

required the RAD to "explain why its decision best reflects the legislature's intention" and the case law on the concept of relevance (*Vavilov* at para 133).

[27] In the present case, I find that the RPD's reasoning concerning Ms. Dugarte de Lopez's evidence reveals a decisive flaw in terms of rationality or logic, and that the reasons do not contain a line of analysis that could reasonably lead the RAD from the evidence before it to the conclusion at which it arrived (*Vavilov* at para 102; *Canada Post Corporation* at para 31). At the end of the day, the errors committed by the RAD in this regard lead me "to lose confidence in the outcome reached by the decision maker" (*Vavilov* at para 123).

[28] Given this conclusion on how the RAD handled the new evidence, it is not necessary for me to deal with the other arguments made by Ms. Dugarte de Lopez against the RAD's decision.

[29] Counsel for the Minister argued at the hearing that, even if the RAD had erred in the admissibility of the new evidence, the Court should not intervene because, even with this evidence, the outcome of the Ms. Dugarte de Lopez's appeal on the merits would not have changed. I do not agree with this argument in the circumstances of this case.

[30] In *Vavilov*, the Supreme Court of Canada did point out that a reviewing court has some discretion and latitude as to the remedy to be awarded when it overturns an unreasonable decision, with the majority warning against the "endless merry-go-round of judicial reviews and subsequent reconsiderations" (*Vavilov* at paras 140–42). Thus, it may sometimes be appropriate to refuse to remit a case to an administrative decision maker "where it becomes evident to the

court, in the course of its review, that a particular outcome is inevitable and that remitting the case would therefore serve no useful purpose" (*Vavilov* at para 142; *Mobil Oil Canada Ltd v Canada ‑ Newfoundland Offshore Petroleum Board*, [1994] 1 SCR 202 at pp 228–30; *Entertainment Software Assoc. v Society Composers*, 2020 FCA 100 [*Society Composers*] at paras 99-100). This can also be the case when correcting the error would not have changed the existing result and would have no practical significance, and where only one conclusion is actually possible (*MiningWatch Canada v Canada (Fisheries and Oceans)*, 2010 SCC 2 at para 52; *Farrier* at para 31; *Robbins v Canada (Attorney General)*, 2017 FCA 24 at paras 16–22). This discretion to grant or not grant remedies exists in the contexts of both procedural errors and substantive defects (*Society Composers* at para 99).

[31] However, as the Supreme Court clarified, this discretionary power in the matter of remedies must be exercised with restraint because the choice of remedy must in particular be "guided by the rationale for applying [the standard of reasonableness] to begin with, including the recognition by the reviewing court that the legislature has entrusted the matter to the administrative decision maker, and not to the court" (*Vavilov* at para 140). Thus, where a decision reviewed by applying the reasonableness standard cannot be upheld, it will most often be appropriate to remit the matter to the decision maker to have it reconsider the decision, this time with the benefit of the court's reasons (*Vavilov* at para 141; *Society Composers* at para 99; *Robbins* at para 17). In summary, the threshold for opting not to remit the matter to the administrative decision maker when its decision is deemed unreasonable is high (*D'Errico v Canada (Attorney General)*, 2014 FCA 95 at paras 14–17).

[32] Insofar as the standard of the reasonableness is marked by deference and respect for the legitimacy and competence of administrative decision makers in their area of expertise, the discretion of the reviewing courts to not remit an unreasonable decision to the administrative decision maker for reconsideration must therefore be exercised carefully, with prudence and parsimony, and be limited to the rare cases where the context can only *inevitably* lead to a single result and where the outcome leaves no doubt. These situations will more likely be exceptions. The brief remarks made by the Supreme Court in *Vavilov* on the exercise of discretion in remedies do not constitute an opening for reviewing courts to substitute themselves for the administrative decision maker and interfere with the merits of the decision to be rendered, if it is conceivable that the decision maker could arrive at a decision that is both different and reasonable. It would be ironic, to say the least, if the discretionary remedy associated with the standard of reasonableness, a standard anchored in the recognition of and respect for the role of administrative decision makers, were to become the cause for transferring those decision makers' powers to the courts of justice responsible for their supervision.

[33] I will pause for a moment to clarify that what the Minister is asking me here differs from what was actually done by the Supreme Court in *Vavilov*. In that judgment, after having concluded that the interpretation adopted by the administrative decision maker was unreasonable and having quashed the decision revoking Mr. Vavilov's Canadian citizenship, the Supreme Court exercised its discretion not to remit the case to the decision maker for redetermination because the statutory provision at issue could not reasonably have been interpreted as the decision maker had done. In sum, the Supreme Court quashed the decision at issue and made the only reasonable decision that could be made in that case, namely, to reverse the revocation of

Mr. Vavilov's citizenship. Here, the Minister submitted rather that, even if I conclude that the RAD's Decision is unreasonable, I should not refer the matter back to the administrative decision maker because there is no doubt as to the outcome of Ms. Dugarte de Lopez's appeal and because, in any case, the error would not change anything in the end result. In short, the Minister asks me to exercise my discretion not to remit the matter to the RAD because this would have no practical consequence, and to therefore keep in place the Decision which is the subject of this application for judicial review.

[34] In my opinion, this is not an exceptional situation where, having concluded that the Decision is unreasonable, I should nevertheless exercise my discretion to refuse to remit the matter to the RAD. Admittedly, the RAD analyzed many factors in Ms. Dugarte de Lopez's refugee protection claim before confirming the RPD's decision to reject it. However, its error regarding the new evidence pertained to a fundamental element at the centre of the grievances in the refugee protection claim, namely, the expression of Ms. Dugarte de Lopez's political opinion. It is impossible for me to establish with certainty whether, in light of an adequate consideration of the impact of this new evidence by the RAD, the balancing and weighing of the evidence would inevitably lead to the same conclusion on Ms. Dugarte de Lopez's refugee protection claim. There is not a single possible conclusion here. It may be that, having been informed of the reasons for the error made by the RAD and of the assessment that should have been made of Ms. Dugarte de Lopez's new evidence, another panel could reasonably have come to a different conclusion, more favourable to Ms. Dugarte de Lopez. Conversely, the same decision could also be reinstated. It is the RAD, not the Court, that conducts this assessment. I cannot simply presume that the new evidence would not have changed the state of affairs before

the RAD, and usurp the decision-making authority that Parliament has entrusted to the administrative decision maker in this regard.

[35] By refusing Ms. Dugarte de Lopez's new evidence as it did in the Decision, the RAD actually deprived Ms. Dugarte de Lopez of part of the appeal process to which she was entitled, and in these circumstances, the necessary remedy is to restore this opportunity to her by returning the case to the RAD for reconsideration.

IV. Conclusion

[36] For the reasons above, Ms. Dugarte de Lopez's application for judicial review is allowed. Under the reasonableness standard, the reasons for the Decision must demonstrate that the RAD's findings refusing Ms. Dugarte de Lopez's new evidence were based on an inherently coherent and rational analysis and were justified in light of legal and factual constraints to which the administrative decision maker is subject. That is not the case here.

[37] The parties have not proposed any questions for certification. I agree that there are none in this case.

JUDGMENT in IMM-4869-19

THIS COURT'S JUDGMENT is as follows:

1. The application for judicial review is allowed, without costs.

2. The decision of the Refugee Appeal Division dated June 29, 2019, dismissing the appeal of Ms. Josefa Iraides Dugarte de Lopez is set aside.

3. The matter is referred back to the Refugee Appeal Division for reconsideration of the appeal by a differently constituted panel on the basis of these reasons.

4. No question of general importance is certified.

"Denis Gascon"
Judge

Certified true translation
This 20th day of July 2020.

Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4869-19
STYLE OF CAUSE:	JOSEFA IRAIDES DUGARTE DE LOPEZ v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HEARING HELD BY VIDEOCONFERENCE IN MONTRÉAL, QUEBEC
DATE OF HEARING:	JUNE 12, 2020
JUDGMENT AND REASONS:	GASCON J.
DATED:	JUNE 18, 2020

APPEARANCES:

Nancy Cristina Muñoz Ramirez	FOR THE APPLICANT
Béatrice Stella Gagné	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Carolina Roa Sanchez Montréal, Quebec	FOR THE APPLICANT
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT