Federal Court  Cour fédérale

Date: 20210922

Docket: IMM-6885-19

Citation: 2021 FC 975

[ENGLISH TRANSLATION]

Ottawa, Ontario, September 22, 2021

Present: The Honourable Mr. Justice Roy

BETWEEN:

CARLES PUIGDEMONT CASAMAJO

Applicant

and

**MINISTER OF IMMIGRATION,
REFUGEES AND CITIZENSHIP CANADA**

Respondent

JUDGMENT AND REASONS

[1] The applicant, Carles Puigdemont Casamajo, was seeking to come to Canada as a visitor. Rather than apply for a temporary resident visa, he could avail himself of paragraph 190(1)(a) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, which provides a visa exemption for citizens of countries listed in Schedule 1.1 to the Regulations. As a citizen of

Spain, one of the countries listed in Schedule 1.1, he was eligible for that exemption. However, subsection 11(1.01) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] stipulates that an electronic travel authorization (ETA) is nevertheless required. This subsection reads as follows:

(1.01) Despite subsection (1), a foreign national must, before entering Canada, apply for an electronic travel authorization required by the regulations by means of an electronic system, unless the regulations provide that the application may be made by other means. The application may be examined by an officer and, if the officer determines that the foreign national is not inadmissible and meets the requirements of this Act, the authorization may be issued by the officer.	**(1.01)** Malgré le paragraphe (1), l'étranger doit, préalablement à son entrée au Canada, demander l'autorisation de voyage électronique requise par règlement au moyen d'un système électronique, sauf si les règlements prévoient que la demande peut être faite par tout autre moyen. S'il décide, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi, l'agent peut délivrer l'autorisation.

[2] The applicant did apply for such authorization, twice in fact. After numerous exchanges with the Minister's agents, the applicant was refused an ETA. He is seeking judicial review of that refusal under section 72 of the IRPA.

[3] As is apparent from the wording of subsection 1.01, the immigration officer will issue the authorization if the person applying for it is not inadmissible and meets the requirements of the IRPA.

I. Facts

[4] Long before a referendum on Catalan independence was held, there was considerable legal manoeuvring in Spain aimed at preventing such a referendum from taking place. Following the referendum on October 1, 2017, Spanish authorities issued an arrest warrant for the applicant, who was at the time the 130th President of Catalonia. He was accused of a variety of offences. On reading the various documents that were submitted by the applicant for purposes of obtaining the ETA, it appears that these offences included rebellion, sedition, embezzlement, malfeasance and disobedience. The substance of these various charges is ultimately the source of the dispute that brings this case before the Court. Furthermore, it is unclear whether these are the only charges against the applicant and whether they remain outstanding.

[5] Mr. Puigdemont left Spain after the referendum. We know at the very least that he travelled to Germany, where he was the subject of extradition proceedings initiated by Spain. The applicant was arrested in Germany in March of 2018, and the extradition proceedings against him failed on July 12 of that year.

[6] It appears that the applicant subsequently took up residence in Belgium, where it is believed he remains.

[7] There was some confusion surrounding the ETA application. An initial application was submitted on February 26, 2019. When asked if he was charged with a criminal offence in any country, Mr. Puigdemont answered “no.” This was incorrect. A second application for an ETA

was subsequently submitted, and this time, the applicant answered “yes” to the same question. However, in the details that were provided, the applicant provided the following qualification:

> Arrested on 2018/03/25 in Germany under an European Arrest Warrant issued by Spain. The EAW was turned down by Schleswig-Holstein Hight Court (Germany) on 2018/07/12 and I was released from all charges. This is part of a political Spanish prosecution against me as 130th President of Catalonia.

[8] This short excerpt might leave the impression that the charges had been dropped. While it is true that the extradition request was denied in Germany, it appears that the charges in Spain were not dropped. As one might have expected, the immigration officer continued searching for more information about the charges. As such, on May 9, 2019, he wrote to the lawyer representing the applicant’s interests in Canada to request more information. He noted that a search of several public media outlets revealed that criminal charges had been laid against the applicant. He further noted that such charges require a more careful examination to determine whether they are consistent with any offences under the *Criminal Code* of Canada. Such charges could result in inadmissibility under section 36 of the IRPA (criminality and serious criminality).

[9] In that same letter of May 9, 2019, the immigration officer expressly requested specific official information regarding the charges. He wrote the following:

> [TRANSLATION]
>
> In order to continue processing your application, we require the following documents:
>
> - Document(s) from Spanish legal authorities describing the charges you are facing in that country (examples of documents that might contain this information, without being exhaustive: indictment, arrest warrant, etc.).

- Extracts from the relevant Spanish statutes and regulations cited therein.

- Your explanations regarding the allegations against you.

[10] It appears that the applicant's only response to the immigration officer's specific request was some 300 pages, in no particular order, submitted by means of three emails. This response came on May 28.

[11] The immigration officer commented in the notes to file, which form part of the decision rendered (*Baker v Canada (Minister of Citizenship and Immigration*, [1999] 2 SCR 817, para 44), that despite his clear request for specific information, [TRANSLATION] "[w]e do not have a document from the Spanish authorities that would allow us to identify all the charges and all the potential consequences/sentences under their criminal code. It is impossible to perform a proper equivalency analysis". On June 7, 2019, the immigration officer reiterated his request for information, and 282 pages were apparently provided. The immigration officer observed that [TRANSLATION] "while there are several documents that list the charges in Spain and allow for inferences to be made, we note that there is not a single document, issued by a competent authority in the matter, that lists all of the charges against you (often known as an arrest warrant)." This request for a single document issued by a competent authority is understandable: the batch of 282 pages sent by the applicant, as a response to an initial request for information, did not identify all outstanding charges. The immigration officer therefore requested a document issued by a competent authority in Spain that would list the charges that had been laid. The request reiterated the requirement to send extracts of the relevant Spanish statutes and regulations. The officer noted the existence of an English version of the Spanish criminal code.

[12] The response to the June 7 email came in the form of another batch of 86 pages. No explanation was provided. The first batch did not include an index. The second batch also lacked an index. An acknowledgement of receipt was sent on July 18, 2019.

[13] What was presented as a [TRANSLATION] "procedural fairness letter" was sent on behalf of the Minister on August 29, 2019. It was in fact a notice that the application for an ETA did not meet the requirements. The applicant was reminded of the letter of May 9, 2019, in which specific information had been requested. According to the author of the letter, the 282-page response received was inadequate. On June 7, 2019, a new request was issued that reiterated the original requirements of May 9, 2019. The request noted that additional documentation had been received, but the visa officer remained dissatisfied, recalling the principle that it is the applicant's responsibility to prove to a visa officer that he is not inadmissible and that he meets the requirements of the IRPA. I reproduce here the segment of this letter that I consider most important:

> [TRANSLATION]
>
> We have received and carefully studied all the documents provided. The documents provided mention the charges you are facing in Spain and indicate that criminal proceedings are still pending. I am therefore not satisfied, on a balance of probabilities, that you are not inadmissible under subsection 11(1) of the IRPA at the time of writing this letter. Before I make a final decision, you may provide additional information. You may also provide any other information that you consider pertinent.

[14] The applicant was thus put on notice that the documents submitted would not suffice. It may well be inferred that it is up to the applicant to provide information regarding the specific charges against him and the statutes alleged to have been violated. This August 29, 2019, letter was therefore the third request for specific information. This time the applicant sent 72 pages,

apparently from the Spanish legal system. The applicant added that no further documents would be submitted in support of the decision to be rendered. As with the two previous requests, the applicant did not provide any explanation.

[15] The visa officer noted in the Global Case Management System (GCMS) that the last response from the lawyer consisted of a 72-page document from the supreme court that was dated March 2018. According to him, this document indicated that the applicant was facing charges of rebellion and embezzlement. The visa officer described the situation as follows:

> [TRANSLATION]
>
> The lawyer has not provided any further details or any other information in response to my declaration that I am not satisfied that the client is not inadmissible to Canada. The lawyer has not submitted any documentation indicating that the criminal proceedings have been concluded or that the client is no longer facing criminal charges in Spain. Thus, my concerns set out in the August 29, 2019, letter remain.

The note to file concludes that the decision has been made and that the officer is still not satisfied [TRANSLATION] "on the balance of probabilities, that the client is not inadmissible as he is facing criminal charges in Spain and as the criminal proceedings are still pending."

[16] The refusal letter is dated October 29, 2019. It refers to the two requests for information, dated May 9 and June 7, 2019, as well as the "procedural fairness letter". The immigration officer states that he has carefully studied all the documents submitted, noting in particular the judgment of the central court of first instance dated November 3, 2017, which refers to charges facing the applicant in Spain for rebellion, sedition, embezzlement, malfeasance and disobedience. But the officer adds that there is no indication that these criminal proceedings have

been concluded. The officer is therefore not satisfied that the applicant is not inadmissible, writing as follows:

> [TRANSLATION]
>
> Subsection 11(1) of the Immigration and Refugee Protection Act provides that a foreign national who wishes to become a temporary resident in Canada must satisfy a visa officer that he is not inadmissible to Canada and that he meets the requirements of the Act.
>
> [Emphasis in original]

II. Applicant's argument

[17] The applicant submits that the visa officer's decision is unreasonable. He focuses on the second request for information, in which the immigration officer asked for a single document listing all of the charges he faces. The applicant finds such a request to be unreasonable. He states that several documents, including those he sent to the Canadian authorities, mention the charges, the relevant provisions of Spanish statutes, and potential sentences. In support of this assertion, he refers to the November 3, 2017, decision of the Madrid central court of first instance.

[18] It must be said that this document does refer to charges and provides the section numbers of the Spanish penal code. But we do not find the precise wording of the alleged offences, nor the text of the statute itself. The May 9, 2019, request for information mentioned, by way of example, documents such as an indictment or arrest warrants that could provide the specific information requested. These types of documents are not found in the hundreds of pages sent in the form of a bulk email.

[19] The applicant believes the information can be found in the hundreds of pages that were provided. But he never says where to find it, if at all. At the end of the day, the applicant does not provide evidence of the charges laid or their status. The applicant also claims to have provided several pages of written arguments, which the Court did not find in the file. At the hearing on the application for judicial review, the applicant confirmed that his representations are limited to the initial documentation submitted, which makes no attempt to identify the specific offences and their wording, or the statutes alleged to have been violated. Instead, counsel for the applicant focused on the first application for an ETA in an attempt to justify its contents. In the second part of his written submission, the applicant generally attacks what he considers to be the political nature of the charges against him. Nowhere does he produce these charges or the statutes from which they arose, which might have allowed the administrative decision maker to make some useful observations. In the end, the basic yet simple information was not provided, not even in the applicant's argument at the hearing.

[20] The applicant's reply memorandum, dated January 20, 2020, makes two assertions that can be disposed of now. He first cites paragraph 17 of *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 8667 [*Cepeda-Gutierrez*], in which the Federal Court states that "the burden of explanation increases with the relevance of the evidence in question to the disputed facts." The applicant emphasizes the following passage:

> However, the more important the evidence that is not mentioned specifically and analyzed in the agency's reasons, the more willing a court may be to infer from the silence that the agency made an erroneous finding of fact "without regard to the evidence"

[21] This well-known passage from *Cepeda-Gutierrez* is of no assistance to the applicant. The respondent seeks very specific information to so that an equivalency review between Spanish offences and Canadian law can be conducted.

[22] It is not clear why the applicant refers to *Cepeda-Gutierrez*, given that the real question is whether it was reasonable to deny the ETA application in view of the fact that the applicant had failed to provide the most basic pieces of information: the actual charges brought, the text of the Spanish penal code describing the essential elements of the offence, and any comments the applicant might make in this regard. In my view, the reasons for the refusal are found in the exchanges with the immigration officer and the notes in the GCMS.

[23] Second, the applicant refers the Court to 24 documents submitted to the immigration officer. However, these are merely references to media stories and various decisions by Spanish legal authorities. Counsel states that he cannot submit documents that he does not have. But the question was simple: produce the indictment, or similar official documents, that would offer an official indication of the actual charges and the wording of the statutes that gave rise to those charges. It would be most surprising if the applicant did not have access, through his agents or lawyers, to the arrest warrant that was issued against him on October 27, 2017. Judging by a written document provided by the applicant and issued by the Central Court of Investigation No. 3, in Madrid, on November 3, 2017, it would seem that the applicant was seeking to appear on this matter via videoconference. The immigration officer is obviously entitled to expect the person seeking authorization to come to Canada to provide him with the information needed to obtain such authorization. The onus is on the applicant to provide such basic information as was

required. He is the one who must attest to his legal situation in Spain. The bulk submission of 400 pages does not in any way constitute evidence of his situation at the relevant time, when he was seeking authorization to come to Canada. In any case, we still do not know which charges are still pending.

[24] It is far from clear what is to be gleaned from newspaper articles and media stories when the officer was looking for official information about the charges and the statutes relevant to those charges.

III. Respondent's argument

[25] The respondent has insisted from the outset that the applicant was not inadmissible. That is not the effect of the decision. The respondent maintains that this case concerns the sufficiency, relevance and accuracy of the information required from the applicant to satisfy the visa officer that he is not inadmissible and that he meets the requirements of the IRPA. The visa officer never made a determination as to the reasonableness of the equivalency of the offences under Spanish and Canadian law. That would have been difficult without the documents in question. According to the visa officer, the information provided simply did not lend itself to such an exercise, which is mandatory and for which official documents are necessary.

[26] In this case, the respondent disputes the value of the documentation that was provided. He says that it cannot be up to him to search for what might be useful. The applicant is responsible for answering the questions asked and providing relevant information and evidence (section 16 of the IRPA). For example, the respondent states that over 400 pages were presented

as a bundle. Many of these documents do not even mention the applicant by name; others are of questionable relevance, even as general background information. For example, it is not clear what inference should be drawn from the December 5, 2017, decision withdrawing the European arrest warrant that was issued by Spanish authorities against the applicant and others, when the only issue involves the charges as brought and the statutes that apply to them in Spain. At least the second batch of documents from the applicant, which contains 86 pages, includes copies of decisions regarding the applicant.

[27] In essence, the respondent takes the position that the applicant simply did not produce the evidence that was required. The visa officer would have been satisfied with a copy of the indictment or arrest warrant, and other documents of a similar nature would even have been sufficient and satisfactory. Moreover, the respondent notes that the applicant did not suggest that the type of documents required by the visa officer did not exist or were not available. There was simply an indication that what was provided was what the applicant's counsel in Canada had in his possession. The respondent further argues that there is no principle requiring visa officers to dig through hundreds of pages of documents to extract what they can. It follows that the applicant did not adequately respond to the request for information.

[28] The applicant did not provide the relevant sections of the Spanish penal code in English or French, despite the fact that the visa officer advised him that there was an English version of this code.

[29] As for the argument put forward by the applicant in his memorandum that the charges of rebellion and embezzlement are unfounded, such explanations should have been presented to the visa officer, and certainly not to this Court acting on judicial review. The case cannot be improved once the administrative decision for which judicial review is sought has been rendered. What is being challenged is the administrative decision, which is based on a given file, and nothing more (see, among others, *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22, 428 NR 297; *Bernard v Canada (Revenue Agency)*, 2015 FCA 263; *Delios v Canada (Attorney General)*, 2015 FCA 117, 472 NR 171).

[30] The respondent concludes by arguing that it is not necessary to find that the applicant is inadmissible in order to apply subsection 11(1) of the IRPA. Ultimately, the applicant has an obligation not only to answer truthfully the questions asked of him, but also to produce the required documents (subsection 16(1) of the IRPA). He failed to do so, and it was entirely reasonable for the respondent to deny him the ETA.

IV. Analysis

[31] No one disputes that the standard of review is reasonableness. At paragraph 15 of *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the Supreme Court provides a summary of what constitutes such a review:

> [15] In conducting a reasonableness review, a 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. What distinguishes reasonableness review from correctness review is that the court

> conducting a reasonableness review must focus on the decision the administrative decision maker actually made, including the justification offered for it, and not on the conclusion the court itself would have reached in the administrative decision maker's place.

This is reflected in a posture of respect and judicial restraint towards the administrative decision maker and the decision made. The reviewing court does not seek to substitute the decision it would have preferred to render; it intervenes only where it is truly necessary to safeguard the legality, rationality and fairness of the administrative process.

[32] A reviewing court must therefore understand the decision maker's reasoning process to determine whether the decision as a whole is reasonable. The court looks for justification, transparency and intelligibility of decisions within a system that has adopted a culture of justification. The burden rests with the applicant to demonstrate the unreasonableness of the decision being challenged. This requires satisfying the reviewing court of the existence of serious shortcomings. Any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision. What are fundamental flaws? In *Vavilov*, the Court identified two types of fundamental flaw: where the administrative tribunal lacks internal logic in its reasoning, and where the decision is in some respect untenable in light of the relevant factual and legal constraints that bear on it. No such flaw has been identified, let alone demonstrated, in this case.

[33] It is important to clearly identify the issue. It is narrower than the applicant appears to believe. He wanted to come to Canada as a visitor. In order to do so, the applicant is required by the IRPA to obtain an electronic travel authorization. Such authorization may be issued if

"following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act" (subsections 11(1) and (1.01) of the IRPA). There is no question that it is legitimate to ensure that a foreign national is not inadmissible and that he or she meets the requirements of the IRPA. Since *Canada (Minister of Employment and Immigration) v Chiarelli*, [1992] 1 SCR 711, the higher courts have not backed away from the premise that the "most fundamental principle of immigration law is that non-citizens do not have an unqualified right to enter or remain in the country" (p 733).

[34] In order to conduct this examination, the IRPA places an obligation on the applicant to answer truthfully the questions asked and to provide relevant information and evidence. To determine whether the applicant is inadmissible to Canada, the immigration officer is entitled to be provided with the details relevant to his duty to inquire into the applicant's admissibility. There is nothing unusual about asking what specific charges have been laid against someone who wants to enter Canada. That the officer would want to know what those charges are by being able to consult the texts of Spanish statutes seems quite basic to me. Allowing the foreign national to provide comments is only fair.

[35] Rather than answering simple questions and commenting on the information requested, the applicant provided a considerable amount of paper without offering a simple answer to such a simple question. He did not in any way give evidence as to his own situation by referring, for example, to a particular document that was in the batches sent to the visa officer. In my view, the applicant never provided the relevant information and evidence, as he is obliged to do under section 16 of the IRPA. Indeed, providing more than 400 pages lacking in any real relevance is

not responding to repeated requests for specific information. Page after page of newspaper clippings will not do. Providing court decisions about people other than the applicant is simply pointless. Duplicating documents will not help. The same can be said of what appear to be representations made to a Belgian court that run to a hundred pages. Documents written in Spanish obviously fall into the same category.

[36] In response to the immigration officer's final request in his letter of August 29, 2019, the applicant indicated that he had no further documents to offer. He then sent another 62 pages, as if they were new. They were not. They are found elsewhere because the document had already been submitted in the previous batch.

[37] I attempted to see if the applicant had identified certain documents as more specifically addressing the repeated requests, even as an argument to explain the situation. The only argument offered by the applicant accompanied his first submission, and it did not address these questions at all. In other words, the applicant did not respond to the requests for information that were sent to him. It was up to the applicant to respond.

[38] The respondent was not wrong to bring to the Court's attention two decisions relevant to the file. In *Moussa v Canada (Citizenship and Immigration)*, 2008 FC 515, the issue was whether not providing the information requested under section 16 of the IRPA could result in the application being refused. That case involved an application for permanent residence, and the documents requested were specific: a translated Saudi police clearance document, recent photographs of Mr. Moussa and his family, and an updated version of the immigration forms

from that time. Despite reminders and extensions over a period of several months, these documents were not submitted. This Court upheld the decision to refuse the application as follows:

> [15] In these circumstances, the Officer did not breach his duty of fairness owed to the Applicant. The Applicant had been given ample opportunity to comply with the Officer's request to produce the documents. I am satisfied that the documents requested were relevant to the application and that it was reasonable for the Officer to require them pursuant to subsection 16(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27. The Applicant was under an obligation to produce the requested documents. Since they were not produced, it was therefore open to the Officer to refuse the application for the reasons he did. In so doing, the officer did not breach his duty of fairness owed to the Applicant.

Failure to produce relevant documents may result in the rejection of an application under the IRPA.

[39] The decision in *Ramalingam v Canada (Citizenship and Immigration)*, 2011 FC 278, [2012] 4 FCR 457 [*Ramalingam*] articulates the relationship between sections 11 and 16 of the IRPA. In that decision, the absence of the requested information resulted in the applicant failing to meet the condition set out in subsection 11(1) of the IRPA to the effect that the visa may be issued upon proof that the person is not inadmissible and meets the requirements of the IRPA. Contrary to Mr. Ramalingam's argument, the issue is not to determine whether the person is inadmissible. It is not necessary to find that an applicant is inadmissible in order to refuse an application under section 11. This section states that visas will be issued upon proof that the foreign national is not inadmissible and meets the requirements of the IRPA. When applying for a visa or an ETA, the foreign national must obviously provide the necessary information or the

application will be refused. How can the immigration officer be satisfied that the requirements have been met when the information to establish that the person is compliant or is not inadmissible has not been provided?

[40] In fact, the finding to be made under section 11 precedes the decision determining a person to be inadmissible. Not being inadmissible, but only having the application refused, carries significantly less severe consequences for an applicant. This passage from *Shi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1224, remains true years later:

> [7] The primary flaw in Mr. Shi's reasoning is that the officer did not make a finding of inadmissibility; rather, he dismissed Mr. Shi's application. Section 11(1) provides that an application for visa or other entry document may be refused on two different grounds: (a) because the foreign national is inadmissible; or (b) because he does not meet the requirements of the *IRPA*. In this case, the visa officer's decision was based on two findings:
>
> - the visa officer was not satisfied on how Mr. Shi had accumulated his wealth; and
>
> - the visa officer was not satisfied that Mr. Shi met the requirements of s. 11(1) and s. 16(1) of the *Act*.
>
> [8] The officer made no finding of inadmissibility pursuant to any of the provisions in sections 34 to 41. Had the visa officer found Mr. Shi to be inadmissible to Canada under those provisions, the consequences would have extended far beyond the refusal of his permanent residence application. For example, pursuant to s. 179 of the *Regulations*, he would not be able to acquire a temporary resident visa as a member of the visitor, worker or student class; for such a visa, a foreign national must show that he is not inadmissible (*Regulations*, s. 179(e)). Even though Mr. Shi's application for permanent residence has been denied, he may still (subject to examination and other application criteria) be eligible to visit Canada.
>
> [Emphasis added.]

A finding that the applicant has not proven that he is not inadmissible is not the same as a finding that a person is inadmissible. It is simply that in the absence of pertinent information, it is impossible for the officer to determine that the foreign national is not inadmissible. The penalty is that the application is rejected. Having an application rejected because it is incomplete is not the same as having an application rejected because the person is inadmissible. The fact is that a person who does not answer legitimate questions under section 16 does not meet the requirements of the IRPA.

[41] Canadian citizens have a constitutional right to enter and leave the country. Foreign nationals who wish to enter do not have this same right. Section 11 of the IRPA sets out conditions for entry into the country. In *Kumarasekaram v Canada (Citizenship and Immigration)*, 2010 FC 1311, Justice Rennie, then of this Court, made the following comments with regard to section 11 of the IRPA:

> [9] Under s. 11 of the *IRPA* a visa officer must be satisfied that the applicant is "not inadmissible" and meets the requirements of the *Act*. The burden is always on the applicant to provide sufficient evidence to warrant the favourable exercise of discretion: *Kazimirovic v Canada (Minister of Citizenship and Immigration)*, [2000] FCJ No 1193. In this case, the applicant requests that this Court substitute its view on both the frankness and candour of the applicant during the interview and whether the onus on the applicant to establish that he is not inadmissible has been discharged. Here, the discrepancies noted by the Officer were concrete and objective and would, in the mind of any reasonable person, give reason for concern.
>
> [Emphasis added.]

[42] Certainly, the information sought under section 16 must be relevant and must not be abused by the authorities. But in this case, the applicant never even alleged that the information

sought was not relevant. Had it been necessary because the issue had been raised, I would have found that the 400-plus pages that were eventually produced could fall into the category of evasiveness, as in *Ramalingam* (para 48). The questions asked of the applicant were simple and straightforward. The applicant chose to say things, but did not answer the questions, as he was required to do.

[43] In the final analysis, however, it is not necessary to comment further in this regard given that the issue was not specifically raised and the applicant never established that the respondent's decision was unreasonable. The decision is justified, transparent and intelligible. A reviewing court can fully understand the underlying reasoning, and there are no serious flaws or shortcomings. The applicant could have attempted to demonstrate that the decision was flawed as a result of internally incoherent reasoning, or that the decision was untenable in light of the factual and legal constraints. I find the coherence of the decision to be unassailable, however. The applicant has not demonstrated how it could be untenable in light of sections 11 and 16 of the IRPA. The applicant simply failed to provide the information that was legitimately requested on three occasions. The respondent was therefore justified in refusing to issue the ETA because the application was incomplete.

[44] Accordingly, the application for judicial review is dismissed. The parties have both found that there are no questions to be certified pursuant to section 74 of the IRPA. I agree.

JUDGMENT in IMM-6885-19

THE COURT'S JUDGMENT is as follows:

1. The application for judicial review is dismissed.

2. There is no question to be certified pursuant to section 74 of the IRPA.

"Yvan Roy"
Judge

Certified true translation
Michael Palles, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

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