Federal Court Cour fédérale

Date: 20211001

Docket: IMM-5671-20

Citation: 2021 FC 1018

Toronto, Ontario, October 1, 2021

PRESENT: Madam Justice Go

BETWEEN:

NIKOLETT SIMON

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Ms. Nikolett Simon [the Applicant] applied for a Pre-Removal Risk Assessment [PRRA] under the *Immigration and Refugee Protection Act* [*IRPA*], on account of her gender and Roma ethnicity. She also stated that she would face a risk to her life from her former common-law partner if she returned to Hungary. Her application was denied by a Senior Immigration Officer in a decision dated May 22, 2020 [the PRRA decision].

[2] Ms. Simon has applied for judicial review of the PRRA decision. For the reasons set out below, I find that the PRRA decision is unreasonable, because the officer failed to reasonably engage with the evidence and failed to reasonably apply the Guidelines on gender-related persecution. The decision is set aside for redetermination by a different officer.

II. Background

A. *Factual Context*

[3] The Applicant is a thirty-nine-year-old Hungarian citizen who was born in Miskolc, Hungary where she resided until she left her home country in 2013. Her mother is of Roma ethnicity and her father is of Hungarian ethnicity. The Applicant submits that she faced discrimination throughout her life in Miskolc. While her maternal grandfather taught her about her Roma culture, her father did not want her to be raised as a Roma.

[4] The Applicant recalls facing discrimination and abuse in schools, from both teachers and students alike, due to her Roma origin. Among other things, she notes that she was not able to participate in the entrance exam for a music high school as the student she was paired with for the exam refused to sing with a Roma person.

[5] The Applicant's parents divorced while she was in high school. The Applicant remained with her mother after the divorce. The Applicant had studied as a hair-dresser and sought work in that field, but found most hair salons did not want to hire her due to her Roma ethnicity. She

eventually found work at a hair salon but was fired after a few weeks due to complaints from customers on account of her Roma origin.

[6] Following further job search attempts, the Applicant found work at an auto dealership. After a few months working there, her employer, an older man of Hungarian ethnicity, began making inappropriate advances toward her, telling her he “liked to be with gypsy girls”. When she dismissed his advances, she was reassigned from working in the office to cleaning vehicles in the garage. Her employer’s harassing behaviour continued until the Applicant informed the employer’s wife about it. Her employer then became angry and fired her.

[7] The Applicant began her relationship with her former common-law partner, Peter Vincze [Vincze], at the end of 2007. Vincze, a man of Hungarian ethnicity, disliked Roma people. The Applicant hid her ethnicity from Vincze, introducing him to her ethnic Hungarian father but not her Roma mother. Vincze discovered the Applicant’s Roma identity in 2010 after a chance encounter with the Applicant’s mother. Their relationship deteriorated quickly from this point on as Vincze began drinking and consuming drugs. He also became physically and emotionally abusive, particularly when intoxicated, and began to disparage her Roma ethnicity. After sobering up, the Applicant recalls, he would act apologetically, but would soon begin abusing her again. The Applicant stayed in the relationship at the time as she states she was afraid of leaving him, was dependent on his love, and hoped conditions in the relationship would improve.

[8] The Applicant describes one violent assault in the winter of 2012 when Vincze kicked her, pulled out her hair, and attempted to choke her, leaving bruises on her arms and thighs.

Fearing for her life, the Applicant fled their apartment while Vincze slept. She went to the police station and asked what options were available to victims of domestic violence. She was told that if there was no “blood spillage” the police could do nothing but speak with the perpetrator of the assault. The Applicant did not file a formal complaint, fearing that nothing would come of it and that Vincze would become angry and “take revenge” on her.

[9] The Applicant did not return to Vincze and stayed at a friend’s apartment in another district. She rarely left the apartment and did not tell anyone her location, as Vincze had begun harassing the Applicant’s mother, demanding to know the Applicant’s whereabouts.

[10] The Applicant recalls encountering some police officers on patrol and asked them what she could do if her ex-partner was looking for her and wanted to harm her. The police did not take her inquiry seriously and told her that because she lacked evidence to substantiate her fear she must not be in life-threatening danger.

[11] Afraid of being found by Vincze, in April 2013 the Applicant fled to Canada on a visitor visa. Here, she sought advice from an immigration consultant. The Applicant had intended to seek refugee protection but the consultant advised her not to do so. Instead, the consultant helped the Applicant obtain a work permit. As the Applicant was unsuccessful in finding employment she was unable to renew her visitor permit after six months. On the advice of the same consultant, the Applicant returned to Hungary in August 2014 to apply for a new visa.

[12] While in Hungary, the Applicant was staying at her mother's apartment in Miskolc when she ran into Vincze's friends. A day or two later Vincze was waiting for the Applicant by the stairway of her mother's building. The Applicant describes being assaulted and threatened by Vincze which made her fear for her life. The Applicant recalls Vincze telling her "the police would not believe a stinky gypsy anyways". He left the Applicant and she recalls feeling devastated.

[13] The Applicant sought medical attention at a hospital following the assault. She was afraid to go to the police as she did not trust the process or believe she would be protected. She states that she wanted to return to Canada as quickly as possible and was afraid of beginning a criminal process in Hungary. She successfully obtained a visitor's visa and returned to Canada in September 2014.

[14] In Canada, the Applicant met and moved in with her new partner, who was also from Miskolc. The two had their first daughter in the spring of 2015. Her visitor visa expired, however, and on the advice of her immigration consultant, she visited Hungary in July 2015 to renew her visitor status.

[15] While the Applicant had been in Canada (between September 2014 and July 2015) her mother informed her that the latter had seen Vincze on a number of occasions and that he had asked her repeatedly about the Applicant's whereabouts. The Applicant's mother informed Vincze that the Applicant had left the country and had her own family. Vincze apparently got upset at this and stated that if the Applicant returned to Hungary she would regret it. When the

Applicant visited Hungary in July 2015, she did not visit Miskolc. She remained in Budapest and had her mother visit her there. That was her last visit to her home country.

[16] The Applicant became pregnant again in December 2016. She successfully obtained an extension on her visitor status. The Applicant's visitor visa expired in October 2017, but she remained in Canada because, she claims, she was afraid for her and her family's lives, should they have to return to Hungary. Further, she feared that she would not be able to return to Canada if she went back to Hungary. She applied to extend her visitor status again but her application was refused in February 2019.

[17] The Applicant's partner was detained by Canada Border Services Agency [CBSA] in September 2019 for having overstayed his visitor visa. Through this process, CBSA discovered the Applicant's visitor status had also expired. The Applicant was arrested and a removal order was issued against her. The Applicant was allowed to submit a PRRA application. The Applicant submitted an Affidavit, along with supporting documents including the medical report from the hospital where she sought treatment after the assault by Vincze in 2014. The Applicant's counsel also prepared written submissions in support of her PRRA application.

B. *Decision Under Review*

[18] The Applicant's PRRA application was rejected by the Officer, who determined that the Applicant would not be subject to a risk of torture, a risk of persecution, or face a risk to life or risk of cruel and unusual treatment or punishment. In essence, the Officer found the Applicant

had failed to meet the evidentiary burden and failed to fulfil the requirements of sections 96 and 97 of *IRPA*.

[19] The Officer was satisfied that the Applicant is of half-Roma ethnicity, and made note of the Applicant's account of the discrimination she faced when applying to a music high school. The Officer noted the Applicant's statements regarding her difficulty finding and sustaining employment in Hungary due to her Roma ethnicity, but found that the Applicant was hired by a "previous employer" who knew of her ethnicity and that "the reason for her dismissal at her last employment was due to a personal conflict".

[20] Considering the Applicant's statements regarding her ex-partner Vincze, the Officer noted her allegations that he discriminated against Roma people, her statement that she hid her identity from him, and her claim that he became abusive and violent towards her after discovering her identity. The Officer further considered the Applicant's claim that Vincze's abuse intensified in 2012, following which she approached local police, but took issue with the Applicant's failure to file a police report.

[21] "In the absence of documentary evidence on country conditions in Hungary", the Officer stated that they conducted their own independent research consisting of the U.S. Department of State, "2019 Country Reports on Human Rights Practices: Hungary" [US DOS Report]. The Officer acknowledged documentation of challenges Roma people face in Hungary concerning education, housing, employment, and access to social services, among other concerns. The Officer also acknowledged the occurrence of acts of violence and discrimination targeting Roma

people in Hungary. The Officer concluded, however, that in totality, the documentary evidence did not persuade them on a balance of probabilities that all Roma people in Hungary face discrimination amounting to persecution.

[22] Emphasizing that Hungary is a “functioning democracy”, the Officer concluded that the Applicant had not provided “sufficient clear and convincing evidence” to rebut the presumption that Hungary is able and willing to provide her protection. The Officer further concluded that the Applicant had “provided insufficient evidence to demonstrate that she sought all avenues of protection within Hungary, prior to seeking protection in Canada”.

III. Issues

[23] The Applicant raises several issues in her application, arguing, among other things, that the PRRA Officer has applied the wrong legal test for persecution and made veiled credibility findings masked as insufficient evidence. The most persuasive submissions made by the Applicant, however, are with regard to the Officer’s failure to reasonably engage with the evidence. My decision will thus focus on the issue of reasonableness of the PRRA decision.

IV. Analysis

1. Standard of Review

[24] As confirmed by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], reasonableness is the presumptive standard of review of the merits of an administrative decision (*Vavilov* at para 25).

[25] I agree with the Respondent that the circumstances in this case do not warrant a departure from the standard of reasonableness (*Vavilov* at paras 53-64; and *Gandhi v Canada (Citizenship and Immigration)*, 2020 FC 1132 at para 27).

[26] A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). The onus is on the Applicant to demonstrate that the PRRA decision is unreasonable. To set aside a decision on this basis, the reviewing court must be satisfied that "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

2. Did the PRRA Officer err by failing to reasonably engage with the evidence and by misapprehending evidence?

[27] There were several errors, in my view, with respect to the Officer's engagement with the evidence that was put before them.

Error 1: Failure to meaningfully engage with the country condition evidence

[28] The Applicant submits the Officer failed to meaningfully engage with the country condition evidence by disregarding the Applicant's request that the most recent National Documentation Package [NDP] for Hungary be considered on the basis of the Officer's finding that "the specific documents for consideration were not identified nor provided".

[29] Noting that the NDP is a long-standing staple on the Immigration and Refugee Board [IRB] website and is used as routine practice in PRRA decisions, the Applicant submits even if she had not requested the NDP specifically, PRRA assessments necessarily require engagement with the NDP when assessing objective country conditions.

[30] The Applicant cites *Bledy v Canada (Citizenship and Immigration)*, 2011 FC 210 at paras 48-50 [*Bledy*] for the propositions that 1) failure to acknowledge reliable documentary evidence is a ground of appeal to the Court; and 2) the more important the evidence not mentioned or analyzed specifically, the more willing a court may be to infer that the officer made an erroneous finding of fact "without regard to the evidence".

[31] She submits that if the Officer was unfamiliar with the NDP, as a matter of procedural fairness the Officer should have required clarification from the Applicant, given the Applicant's specific request that the NDP be used, and her various citations to documents within the NDP in her submissions. By relying instead on the Officer's own independent research without giving the Applicant an opportunity to respond, the Officer exacerbated the breach of procedural fairness.

[32] In addition to requesting the use of the most recent NDP, the Applicant cited specific documents to be considered throughout her submissions to the PRRA Officer. It was thus an error, the Applicant submits, for the Officer to find that citations of the specific documents had not been provided.

[33] The Respondent submits that the Officer did not fail to consider the NDP. Rather, the Officer “merely declined to bear the Applicant’s burden to establish her claim—for instance, by deciding how much of the NDP was relevant to the claim—and instead reviewed the US Department of State report regarding Hungary”.

[34] The Respondent submits that the Officer’s decision to assess the Applicant’s state protection submissions against the US DOS Report was reasonable. Further, as the Officer’s “independent research” involved only the US DOS Report, there is no question of procedural fairness raised.

[35] The Respondent also submits that it is unusual to see PRRA submissions citing the NDP without including these documents in the application package and the Officer was “mixed up”. Ultimately, the Respondent argues, the Applicant has to do more than just say the Officer did not point to a specific document in the NDP.

[36] I agree with the Respondent that the Officer’s independent research raises no question of procedural fairness, in part because the US DOS Report formed part of the NDP requested by the Applicant. I disagree with the Applicant that the Officer would have been obligated to refer to the NDP regardless of whether the Applicant requested it. The passage from *Bledy* relied upon by the Applicant in support of this submission does not stand for the position the Applicant asserts. The Court in *Bledy* specifically emphasized that the relevant evidence had been provided to the decision-maker (*Bledy* at paras 48-50).

[37] The question before me is whether the Officer has made an unreasonable decision by failing to consider the specific documents cited by the Applicant in her PRRA submissions.

[38] To start, I note that the PRRA decision states in relation to the NDP that, “the specific documents for consideration were **not identified** nor provided” [emphasis added].

[39] Contrary to what the Officer has found, the Applicant in her PRRA submissions did **identify** various specific documents in the NDP by citing from these documents and in some cases, naming the specific documents in the body of the submissions. Assuming that the Officer assessed the Applicant’s submissions in detail, it would have been impossible for the Officer not to see the few dozens of citations to the specific documents relied on. It is simply unreasonable for the Officer to state that the specific documents were “not identified”.

[40] More importantly, in addition to including citations for various reports from the NDP, the Applicant’s PRRA submissions contained summaries from specific country condition reports. Below are but a few examples of the quotations from country conditions reports, including those from the NDP as contained in the Applicant’s PRRA submissions:

The strong racism and discrimination that has been pervasive against Roma is summarized succinctly by the European Commission against Racism and Intolerance:

> Anti-gypsism, is a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination.[26]

[21] *Ibid.*
[22] Human Rights First, "The Jobbik Party in Hungary: History and Background", December 2015, page 2 (Item 4.4, IRB NDP).
[23] *Ibid.*
[24] *Ibid.*
[25] Immigration and Refugee Board of Canada, "Situation of Roma, including employment, housing, education, healthcare and political participation; whether Roma are required to pay a fee for health services (2013-July 2016)", August 18, 2016, (Item 13.5, IRB NDP Package).
[26] European Commission against Racism and Intolerance, "Fighting racism, intolerance and discrimination against Roma".

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[41] Further, on the issue of domestic violence, the PRRA submissions quoted as follows from the NDP:

In particular, the IRB's own research at Item 2, entitled: "Hungary: Domestic violence, including in Roma communities; legislation, including implementation; state protection and support services, particularly in Miskolc, Debrecen and Budapest (2016-July 2018)"[12] is on point with the Applicant's Affidavit and lack of police protection. Said resource notes that domestic violence remains a "serious issue" in the country. A staggering 19% of women in Hungary have experienced physical violence by a partner since the age of 15, but the prevalence of this form of violence reaches 33 % if the experiences indicated in the self-completion questionnaire are added to those experiences shared during an interview by the European Union Agency for Fundamental Rights.[13]

[12] "Domestic violence, including in Roma communities; legislation, including implementation; state protection and support services, particularly in Miskolc, Debrecen and Budapest (2016-July 2018)", IRB, HUN106144.E (Item 5.2, NDP).
[13] *Ibid.*
[14] *Ibid.*

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[42] Later on in the PRRA submissions, the Applicant continued to quote:

There is "well-documented discrimination and hostility of law-enforcement agencies ... against Roma people," which is "likely" to negatively impact Roma victims' decision to contact the police (NANE Aug. 2018).[41] The Professor also indicated that, due to a "highly discriminatory social and political environment, few if any Roma would reach out to the police for help" (Professor 30 July 2018).[42]

Despite the passing of a law in July 2013 specifically criminalizing domestic violence for the first time, human rights groups have highlighted the ongoing protection gaps for women in Hungary, particularly Roma women, who are especially at risk ... due to their exclusion and mistrust of police and the judiciary.[43]

Similarly, in 2013, Human Rights Watch reported that for Roma women, in particular, a "[l]ack of confidence in the police ... impedes reporting" of domestic violence (Human Rights Watch Nov. 2013, 3). According to a 2013 country report on Hungary, published by the European Parliament, in "only" 20 percent of cases in which Roma women experienced domestic violence, the victim sought police assistance and the police responded "effectively" in "only 1 out of 7 cases".[44]

According to the UN Human Rights Committee, domestic violence is "underreported" in Hungary and police response is "inadequate" (UN 9 May 2018, para. 25). NANE indicated that women often "think they filed a [police] report" after calling the police to the premises and explaining to the officers that "they want to start a case, and then it turns out that the police did not consider that to be an official report" (NANE Aug. 2018). According to the same source, the police are "often biased" and "often question the victim's credibility" in cases of domestic violence (NANE Aug. 2018).[45]

[41] "Domestic violence, including in Roma communities; legislation, including implementation; state protection and support services, particularly in Miskolc, Debrecen and Budapest (2016-July 2018)", IRB, HUN106144.E (Item 5.2, NDP).
[42] *Ibid.*
[43] *Ibid.*
[44] *Ibid.*
[45] *Ibid.*

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[43] In view of these extensive quotes, it is difficult to fathom why the Officer would have come to the conclusion that the country condition documents for consideration were **not identified**. By extension, the PRRA decision itself has also failed to identify let alone address the

summaries of these documents as contained in the PRRA submissions, some of which undercut the Officer's own findings with respect to the issue of state protection.

[44] Given that the specific documents cited in the Applicant's submissions were fundamental to the arguments made by the Applicant regarding country conditions and state protection, and would have contradicted the findings of the Officer, the Officer's failure to address the specific country condition evidence submitted by the Applicant renders the decision unreasonable.

Error 2: Failing to follow the "Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution"

[45] The Applicant submits that the PRRA Officer disregarded the IRB's "Chairperson Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution" [the Guidelines] issued by the Chairperson pursuant to subsection 65(3) of the *Immigration Act*.

[46] The Applicant relies on the following quote from the Guidelines: "**When considering whether it is objectively unreasonable** for the claimant not to have sought the protection of the state, **the decision-maker should consider, among other relevant factors, the social, cultural, religious, and economic context in which the claimant finds herself**" [emphasis in original Guidelines].

[47] In failing to consider both the Guidelines and the specified NDP documents as noted above, the Applicant submits that the officer "failed to conduct any analysis about state protection in the gender-related context". In doing so, the officer ignored the direction in the

Guidelines that "**Decision-makers should consider evidence indicating a failure of state protection if the state or its agents in the claimant's country of origin are unwilling or unable to provide adequate protection from gender-related persecution**" [emphasis in original Guidelines].

[48] The Respondent submits the Applicant is incorrect in asserting that the Officer disregarded the Guidelines and made no findings regarding her fear of Vincze. The Respondent notes that an administrative decision-maker need not "mention every piece of evidence when rendering a reasonable decision", citing *Burai v Canada (Citizenship and Immigration)*, 2020 FC 966 at para 38. While acknowledging that the Guidelines are valuable for PRRA officers to consider, notwithstanding that they are not members of the IRB, the question is whether the decision was unreasonable with regard to the Guidelines, regardless of whether they were specifically cited.

[49] While I agree with the Respondent that the Officer need not specifically mention the Guidelines, the decision, read as a whole, reveals that the Officer has failed to consider the Guidelines in their assessment of the PRRA application.

[50] As this Court has stated in *Khon v Canada (Minister of Citizenship and Immigration)*, 2004 FC 143 at paragraph 19, quoting from *Fouchong v Canada (Secretary of State)*, [1994] FCJ No 1727 at paragraph 10:

> The Guidelines are not law, but they are authorized under s. 65(3) of the Act. They are not binding but they are intended to be considered by members of the tribunal in appropriate cases. In a memorandum accompanying their circulation, the Chairperson of

> the I.R.B. advised, *inter alia*, that while they are not to be considered binding
>
> Refugee . . . Division Members are expected to follow the Guidelines unless there are compelling or exceptional reasons for adopting a different analysis.
>
> Individuals have a right to expect the Guidelines will be followed unless compelling or exceptional reasons exist for departure from them.

[51] In the present case, the Guidelines and the country condition evidence cited by the Applicant regarding gender, domestic violence, and state protection were critical to understanding the Applicant's experiences as a Roma woman living in Hungary. For instance, her hesitation in filing a police report – the absence of which appears to be a significant determinative factor in the Officer's decision to reject her application – needs to be assessed in the broader context of gender-based (and race-based) persecution faced by Roma women.

[52] While the Officer noted that the Applicant feared for her life and approached the local police to inquire about protection, in the same breath, the Officer also took issue with the Applicant's decision not to file a report and with her having "**merely** placed an inquiry" [emphasis added]. In the language of the Guidelines, the Officer did not consider the "social, cultural, religious, and economic context" in which the Applicant found herself when assessing whether it was objectively unreasonable for the Applicant not to have sought the state's protection.

[53] As the Guidelines provide at s C(2):

> If the claimant can demonstrate that it was objectively unreasonable for her to seek the protection of her state, then her

> failure to approach the state for protection will not defeat her claim.

[54] In view of the Officer's failure to engage with the country condition evidence cited by the Applicant regarding state protection, or lack thereof, for Roma women victims of domestic violence, coupled with the Officer's comment about the Applicant having ***merely*** placed an inquiry with the police after the domestic assault, the only logical conclusion I can draw is that the Officer has failed to engage with the Guidelines when considering the Applicant's decision not to approach the state for protection.

[55] Putting it in another way, the Officer treated the Applicant's decision not to file an official police report as *de facto* unreasonable, regardless of the country condition evidence and the explanation provided in the Applicant's Affidavit. Such a treatment runs contrary to the Guidelines, which calls on decision-makers to consider evidence indicating a failure of state protection from gender-related persecution.

[56] Another example of the Officer's failure to engage with the Guidelines is found in their characterizing inappropriate sexual advances towards the Applicant by her employer as "a personal conflict". Apart from mischaracterizing the evidence, this finding has the effect of minimizing and dismissing the reality of gender-related violence faced by the Applicant, and trivializing the harmful effect of sexual violence.

[57] The Officer similarly dismissed the 2014 hospital report provided by the Applicant as being "insufficient to establish the risks alleged by the applicant", in part because the Officer

concluded that the Applicant's reported injuries were "minor and not severe". I would note that the words "minor" and "not severe" did not appear in the medical report itself. Rather, it was the conclusion drawn by the Officer after having reviewed said document. The medical report confirms that at the time of seeking treatment, the Applicant had a swollen upper right eyelid, abrasion on the upper right eyelid, painful right shoulder, several fingertips of suffusion in the left and right arms, swollen and painful middle finger of the right hand, and several fingers of livid suffusion on the front of the right thigh. Even if these above described injuries were to be considered minor, the medical report confirms the Applicant's own account of the assault, and as such it is unclear what renders it insufficient evidence in light of the Applicant's gender-based violence claim. Besides, even though the medical report did not name the perpetrator – another issue highlighted by the Officer – it did confirm that the Applicant said she was abused by her ex-boyfriend.

[58] The Respondent submits that in finding the medical record "insufficient evidence" to support the claim, what the Officer was really stating is that the evidence is not probative with regard to a forward-looking risk, especially given that the last alleged incident with Vincze occurred seven years ago and the Applicant has been in Canada for six years. As the Applicant has pointed out, the Respondent's argument in this regard did not appear anywhere in the Officer's analysis. Indeed, it is not clear at all if the Officer has considered the issue of forward-looking risk and then rejected it based on the evidence before them.

[59] The Officer's failure to engage with the Guidelines in this case is particularly troubling given that the very basis of the Applicant's PRRA claim is on account of her gender and Roma

ethnicity, as well as a risk to her life due to domestic violence by her former common-law partner.

[60] The PRRA Officer's combined failure to consider the country condition evidence and the Guidelines has a cascading effect on the way the Officer treated the evidence submitted by the Applicant with respect to her claim based on gender-based violence.

[61] Based on all of the above, I therefore find the PRRA decision to be unreasonable.

[62] Having determined that the decision is unreasonable, it is unnecessary for me to consider the remaining issues that arise in this case.

V. Conclusion

[63] The application for judicial review is granted.

[64] Neither party proposed a serious question of general importance for certification and I find that none arises in this case.

JUDGMENT in IMM-5671-20

THIS COURT'S JUDGMENT is that:

1. The Applicant's judicial review application is granted.
2. The decision under review is set aside and the matter referred back for redetermination by a different decision-maker.
3. There is no question for certification.

"Avvy Yao-Yao Go"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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