

Federal Court



Cour fédérale

Date: 20220401

Docket: IMM-2163-21

Citation: 2022 FC 429

Ottawa, Ontario, April 1, 2022

PRESENT: Madam Justice St-Louis

BETWEEN:

MOMCILO RUDAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Mr. Momcilo Rudan, seeks judicial review of the decision of Officer CNC at the Case processing Centre Edmonton, dated March 16, 2021, and refusing his application for an employer-specific work permit.

[2] At the hearing of this application, Mr. Rudan confirmed that the only decision for which leave had been granted, and which is thus properly before the Court in these proceedings, is the

one refusing his employer-specific work permit. Mr. Rudan confirmed as well that the other decision rendered the same day, refusing his application for an open work permit, is not before the Court in these proceedings.

[3] In their decision, the Officer refused the application Mr. Rudan had presented for a work permit under subsection 205(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [the Regulations] based on reciprocity. The Officer considered that Mr. Rudan had failed to provide sufficient evidence to demonstrate that reciprocity existed and had failed to provide sufficient proof of an exchange agreement between the Canadian and foreign parties.

[4] For the reasons exposed below, I find that Mr. Rudan has not met his burden to convince me that the Officer's decision is unreasonable.

[5] Mr. Rudan is a citizen of the Republic of Serbia and a professional soccer player. On October 15, 2019, he obtained a work permit to play soccer for the Canadian Soccer League's Scarborough Soccer Club, and an open work permit, both valid until October 10, 2020. On October 5, 2020, he applied for new work permits.

[6] In his application for the employer-specific work permit, Mr. Rudan indicated that he was looking to extend his work permit to continue playing soccer for the Scarborough Soccer Club (Scarborough S.C.), one of the Canadian Soccer League teams. Mr. Rudan cited the Citizenship and Immigration Canada guidelines regarding Labour Market Impact Assessment [LMIA]

Exemption Code C-20 relating to reciprocity, adopted under subsection 205(b) of the Regulations, and cited subsection 205(a) of the Regulations.

[7] In said application, as evidence of the reciprocity between Canada and Serbia, Mr. Rudan presented only (1) written submissions that two Canadian players played for Serbia; and (2) primarily Wikipedia pages concerning these two players and the Canadian and Serbian football leagues, as well as profiles of the two Canadian players available on the Internet.

[8] Before the Court, Mr. Rudan takes issue solely with the adequacy of the Officer's reasons. Mr. Rudan cites paragraphs 96 and 97 of the Supreme Court of Canada's decision in *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 on the adequacy of reasons. He argues that the Officer's reasons fail in many ways, and that said reasons disclose an unreasonable and confused decision. Mr. Rudan takes issue with the fact that the Officer, having concluded that Mr. Rudan had failed to provide sufficient evidence to demonstrate that reciprocity existed, disclosed nothing as to how they, the Officer, had arrived at this conclusion. Mr. Rudan adds that overall, the Officer's reasons do not give sufficient understanding of the reasoning, and when they do, they seem to be made on erroneous and irrelevant information and factors. Mr. Rudan adds that the Officer should have explained more in details what was missing, could have reached out to request what was missing, and could have relied on the fact that a prior work permit had been issued in the same category as the new one he was seeking.

[9] The Minister essentially responds that the decision is reasonable, and that the reasons are sufficient and adequate. Given the circumstances of this case, I agree.

[10] The Court's jurisprudence confirms that reasons are required to be sufficiently clear, precise and intelligible so that an applicant may know why his or her application failed and be able to decide whether to seek judicial review. Decisions of a visa officer need not be comprehensive and may be brief or limited provided that the reasons are comprehensible. Reasons are to be read in the light of all the circumstances of a decision and must justify why these circumstances led to a particular outcome (*Zhu v Canada (Citizenship and Immigration)*, 2020 FC 980 at paras 35-36; *Musadiq v Canada (Citizenship and Immigration)*, 2020 FC 316 at paras 37-38; *Ogunfowora v Canada (Citizenship and Immigration)*, 2007 FC 471 at para 58; *Peiro v Canada (Citizenship and Immigration)*, 2019 FC 1146 at para 15; *Hajiyeva v Canada (Citizenship and Immigration)*, 2020 FC 71 at para 6).

[11] In this case, the Officer's reasons are short, but clearly informs Mr. Rudan that the documentation he submitted to support his work permit application was insufficient to establish that the required reciprocity existed. The onus was on Mr. Rudan and/or his employer to provide bone fide evidence of a reciprocal arrangement, as further confirmed in the guidelines and websites presented by the parties. This evidence includes providing and exchange agreement, as noted by the Officer, which was not provided here.

[12] Notably, Mr. Rudan does not argue before the Court that the evidence before the Officer was ignored or that it was sufficient to established reciprocity. Given the dearth of evidence adduced in support of his work permit application, and although Mr. Rudan had previously received a first work permit in the sought after category, the Officer's decision is reasonable. Not much could be said except that insufficient evidence had been adduced. Mr. Rudan has filed no

authorities for the proposition that the Officer must provide more details as to what was missing for the applicant to have met his burden, and for the reasons to be adequate.

[13] Mr. Rudan has failed to establish that the reasons are inadequate given the record. The application for judicial review will be dismissed.

JUDGMENT in IMM-2163-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question is certified.
3. No costs are awarded.

"Martine St-Louis"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-2163-21

STYLE OF CAUSE: MOMCILO RUDAN v THE MINISTER OF
CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: BY VIDEOCONFERENCE

DATE OF HEARING: MARCH 23, 2022

JUDGMENT AND REASONS: ST-LOUIS J.

DATED: APRIL 1, 2022

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