

Federal Court



Cour fédérale

**Date: 20220503**

**Docket: IMM-2870-20**

**Citation: 2022 FC 644**

**St. John's, Newfoundland and Labrador, May 3, 2022**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**SHUNLI LIU**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] Mr. Shunli Liu (the “Applicant”) seeks judicial review of the decision of an Officer, refusing his application for permanent residence on Humanitarian and Compassionate (“H and C”) grounds pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, S. C. 2001, c. 27 (the “Act”).

[2] The Applicant is a citizen of China. He came to Canada in 2008 and claimed protection on the basis of fear of persecution resulting from his status as a practicing Catholic in China. His claim was denied on January 5, 2011 by the Immigration and Refugee Board, Refugee Protection Division (the “RPD”) on credibility concerns.

[3] The Applicant submitted his H and C request on September 18, 2018. The decisions, denying his request, was dated June 17, 2020.

[4] The Officer determined, among other things, that the Applicant had failed to address the credibility concerns of the RPD. The Officer also found that the Applicant had failed to submit sufficient evidence to show that he would not be able to continue practicing the Catholic religion as a member of an underground Catholic church and further, that he did not fit the profile of a “parishioner” who might attract the attention of the Chinese government and could practice his religion upon his return to China.

[5] In this application for judicial review, the Applicant challenges the Officer’s assessment of risk and adverse country conditions.

[6] The decision of the Officer is reviewable on the standard of reasonableness, pursuant to the decision in *Canada (Minister of Citizenship and Immigration) v. Vavilov* (2019), 441 D.L.R. (4th) 1 (S.C.C.).

[7] In considering reasonableness, the Court is to ask if the decision under review “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 that decision”; see *Vavilov, supra* at paragraph 99.

[8] Upon considering the contents of the Certified Tribunal Record and the affidavit of the Applicant sworn on November 1, 2020, as well as the written and oral submissions of the Applicant and of the Minister of Citizenship and Immigration (the “Respondent”), I hold the view that the decision does not meet the required legal test.

[9] The Officer referred to a report that was published in 2017 to support the view that practicing Catholics are not harassed by authorities and that there is a “high degree of religious tolerance” for Catholicism in the Applicant’s home province in China. However, the Officer failed to mention more recent information contained in a report from 2019 that gave a contradictory view of the 2017 material. The Officer did not acknowledge the more recent material that addressed evidence of risk to Catholics and other religious minorities in China.

[10] In my opinion, this failure makes the Officer’s decision unreasonable. It is the kind of error that attracted criticism in the decision of *Cepeda-Gutierrez v. Canada (Minister of Citizenship & Immigration)* (1998), 157 F.T.R. 35.

[11] This error is dispositive and it is not necessary for me to address the other arguments raised by the Applicant.

[12] In the result, the application for judicial review will be allowed, the decision will be set aside and the matter remitted to a different office for redetermination, no question is proposed for certification.

**JUDGMENT in IMM-2870-20**

**THIS COURT'S JUDGMENT is that** the application for judicial review is allowed, the decision of the Officer is set aside and the matter remitted to a different officer for redetermination. There is no question proposed.

“E. Heneghan”

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2870-20

**STYLE OF CAUSE:** SHUNLI LIU v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** HELD BY WAY OF VIDEOCONFERENCE  
BETWEEN TORONTO, ONTARIO AND ST. JOHN'S,  
NEWFOUNDLAND AND LABRADOR

**DATE OF HEARING:** APRIL 14 2022

**REASONS AND JUDGMENT:** HENEGHAN J.

**DATED:** MAY 3, 2022

**APPEARANCES:**

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