

Federal Court



Cour fédérale

**Date: 20230302**

**Docket: IMM-4130-22**

**Citation: 2023 FC 288**

**Ottawa, Ontario, March 2, 2023**

**PRESENT: The Honourable Mr. Justice Bell**

**BETWEEN:**

**HOSEIN KHAZAIE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Nature of the Matter

[1] The Applicant, Hosein Khazaie (the “Applicant”), brings an application for judicial review pursuant to s. 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] in which he challenges a decision (the “decision”) by an unidentified immigration Officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”) dated 26 April, 2022. The Officer refused the Applicant’s entry to Canada on a study permit because he

was not satisfied the Applicant would leave Canada at the end of his stay, as required by section 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] The Applicant challenges the decision on multiple grounds, including: a lack of a rational or an intelligible chain of analysis underlying the Officer's conclusions of fact; the use of bald statements by the Officer to reverse-engineer a refusal; an assertion the decision was based on broad generalizations; an assertion the Officer failed to meaningfully grapple with the positive aspects of the application; and, finally, an alleged lack of evidence to support the Officer's findings.

[3] For the reasons that follow, I dismiss this application for judicial review.

## II. Facts

[4] The Applicant is a 57-year-old male citizen of Iran who seeks a study permit to advance his education in Canada by pursuing a Diploma in Chemical and Environmental Technology (the "Program") at the British Columbia Institute of Technology ("BCIT") in Burnaby, BC. This is a two-year diploma program.

[5] The Applicant currently holds a Master's Degree in Construction Management from the Grenoble Graduate School of Business (2008) in France, and a Bachelor in Chemical Engineering from the Abadan Institute of Technology in Iran (1988). The Applicant's work experience is no less impressive than his academic qualifications. He has been employed as an Environmental Management Systems Auditor in Iran's oil and gas industry on a contractual basis

since 2020. His most recent contract was with Ganj-Nameh Petrochemical Company, which began on August 23, 2021, and ended thirty (30) days thereafter. From 2004 – 2020, he held various positions for a company called Zagros Petrochemicals. Since 1992, but for a 7-year-period (1997–2004) the Applicant’s entire professional career has been in the petrochemical/oil and gas field.

[6] The Applicant is married and has two adult children. The Applicant states in his proposed study plan that his wife and children intend to apply for Temporary Resident Visas to join him in Canada. The Applicant also has two siblings in Iran. He does not have any family ties to Canada. There have been no adverse travel history issues.

[7] In November 2021, the Applicant received a letter of acceptance from BCIT. The Applicant pre-paid \$21,000.00 CAD, which more than covered his entire tuition of \$20,499.98 CAD for the first academic year. The Applicant estimated that his room and board would be approximately \$15,000 CAD. The Applicant has \$12,414.68 CAD in a deposit account under his name. His spouse has \$13,925.00 CAD in a similar deposit account.

[8] The Applicant states in his study plan that he wishes to pursue the Program at BCIT for career advancement. He intends to establish his own environmental management systems’ consulting firm in Iran following completion of the Program. However, in the same study plan, he also states that he is choosing Canada because graduate students in Canada have the chance to apply for a Graduate Work Permit after completion of their studies in Canada. The relevance of

this disclosure is questionable given that he does not intend to pursue a graduate program in Canada.

[9] On or about November 27, 2021, the Applicant submitted an initial application for a study permit, which was refused. The officer considering that application concluded the plan of study to be unreasonable and redundant given the Applicant's employment and educational history. The officer conducted a detailed cost/benefit analysis and concluded the Applicant would not adhere to the terms and conditions imposed on a temporary resident. An Application for Leave and Judicial Review was subsequently filed with this Court on December 2, 2021 and, on March 3, 2022, the Applicant filed a discontinuance with the consent of the opposite party. The matter was referred for re-determination. Pursuant to s. 216(1) of the *IRPR*, the Applicant was afforded 30 days to provide any additional information to address the concerns raised in the original refusal; namely, the purpose of the visit, family ties and the Applicant's personal assets and financial status. The present application for judicial review relates to the second refusal.

[10] The Officer refused the study permit application stating that, based on family ties in Canada and his country of residence and the purpose of his visit. As already noted the Officer was not satisfied the Applicant would leave Canada at the end of his stay, as required by s. 216(1) of the *IRPR*.

### III. Decision under Review

[11] Although the refusal letter is brief, the Officer's CGMS notes are robust and are reproduced below:

“After re-opening the application, the principle applicant (PA) was given 30 days to provide any documentation to address the concerns based on the original refusal grounds: R216(1) - Purpose of Visit, Family Ties and Personal Assets and Financial Status. I have reviewed the application for re-determination and note: The applicant is a 56 year-old Iranian national, married, and has applied for a study permit to attend the British Columbia Institute of Technology to obtain a Chemical and Environmental Technology diploma. The positive factors I have acknowledged in my re-determination is that the tuition has been paid in full for the first year. I have considered this positive factor provided by the applicant, including other statements and/or evidence, however, I have given less weight to these positive factors for the following reasons: In regards to their purpose, the applicant holds a BS in Chemical Engineering from Abadan Institute of Technology obtained in 1988. He also holds a MSc in Construction Management from the Grenoble Graduate School of Business obtained in 2008. The applicant has been employed as a Process Engineering Dep. Head at Zagros Petrochemical Co. from Sep 2014 – Dec 2020. He is currently employed as an Environmental Management Systems Auditor at Production plants in Oil & Gas Field , since Dec 2020. For the past years, he has worked as an "auditor of environmental management systems (ISO-14001)." In his study plan, the applicant states "I have been considering expanding my work to be able to establish a consulting organization working exclusively with environmental management systems. To be able to do this, I will need the appropriate certifications, approved by the regulating institutions. Upon extensive research, I found that having a certificate from a developed country significantly increases the chance of successful contracts and business for a consulting organization." Given the applicant already holds a Master's degree from a reputable schooling institution in France which qualifies as a "developped country", I fail to see how the proposed program adequately demonstrates a logical progression of career. In light of the PA's previous studies and current career, the intended program is a redundant course of action and does not appear to be a logical progression in their career path. Given the applicant's previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable. Although the applicant is traveling without their spouse and dependent children, I have concerns that the ties to Iran are not sufficiently great to motivate departure from Canada. When I consider these elements and balance them against the current economic and security situation in Iran and how it relates to the applicant, I am not satisfied that applicant is a genuine student who would leave

Canada at the end of authorized stay. For the reasons above, I have refused this application.

#### IV. Relevant Provisions

[12] The relevant statutory provisions are sections 30(1) and 30 (1.1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] as well as section 216(1) of the *IRPR*. They are reproduced below:

<b><i>Immigration and Refugee Protection Act, SC 2001, c 27</i></b>	<b><i>Loi sur l'immigration et la protection des réfugiés, LC 2001, c 27</i></b>
<b>Immigration and Refugee Protection Regulations, SOR/2002-227</b>	<b>Règlement sur l'immigration et la protection des réfugiés, DORS/2002-227</b>
<b>Work and Study in Canada</b>	<b>Étude et emploi</b>
30 (1) A foreign national may not work or study in Canada unless authorized to do so under this Act.	30 (1) L'étranger ne peut exercer un emploi au Canada ou y étudier que sous le régime de la présente loi.
<b>Authorization</b>	<b>Autorisation</b>
(1.1) An officer may, on application, authorize a foreign national to work or study in Canada if the foreign national meets the conditions set out in the regulations.	(1.1) L'agent peut, sur demande, autoriser l'étranger qui satisfait aux conditions réglementaires à exercer un emploi au Canada ou à y étudier.
<b>Study Permits</b>	<b>Permis d'étude</b>
216 (1) Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following	216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un

an examination, it is established that the foreign national	contrôle, les éléments suivants sont établis :
(a) applied for it in accordance with this Part;	a) l'étranger a demandé un permis d'études conformément à la présente partie;
(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;	b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;
(c) meets the requirements of this Part;	c) il remplit les exigences prévues à la présente partie;
(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and	d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);
(e) has been accepted to undertake a program of study at a designated learning institution.	e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

#### V. Issues and Standard of Review

[13] The presumptive standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at para 23 [*Vavilov*]). None of the exceptions to the presumption of the reasonableness standard apply in the circumstances (*Vavilov*, at paras 17 and 25). Therefore the question is whether the Officer's reasoning and the outcome of the decision, were based on an inherently coherent and rational analysis that is justified in light of legal and factual constraints (*Vavilov*, at para 85). The decision must be justified, transparent and intelligible (*Vavilov*, at para 95). Importantly, a reviewing court must consider the decision as a

whole, and must refrain from conducting a line-by-line search for error (*Vavilov*, at paras 85 and 102).

VI. Submissions of the Parties

[14] The Applicant contends that although the refusal letter and the GCMS notes mention the Officer's concerns, these concerns are neither justified, nor supported by the evidence. The Applicant that the Officer's reasons are incomprehensible. He contends the reasons are arbitrary in light of the evidence submitted. He asserts these errors amount to "badges of unreasonableness". Finally, the Applicant contends the Officer breached procedural fairness because the Applicant could not foresee the basis for the opinion and was unable to respond.

[15] The Respondent contends that the Officer considered all of the information submitted by the Applicant in determining that the study plan was not reasonable. The Respondent also says Officer reasonably concluded that the Applicant failed to establish sufficient family ties to Iran. This, because of the Applicant's stated intention to relocate his entire family to Canada.

VII. Analysis

A. *Was the decision reasonable in that it was intelligible, transparent and justified?*

- (1) The Officer's assessment of the reasonableness of the Applicant's proposed study plan



[16] As already noted, the Applicant says he plans to pursue the Program at the BCIT for purposes of career advancement, as he intends to establish his own environmental management systems' consulting agency in Iran. The Applicant further contends that while his previous education was at a higher academic level, he has chosen the Program because it fits the "niche area" in which he is employed.

[17] The program appears to be significantly below the Applicant's current level of education. The Officer concluded that the proposed course of study does not adequately demonstrate a logical career progression. With respect to the Applicant's desire to hold a diploma or accreditation from a western academic institution, the Officer accurately observed that the Applicant's Master's degree is from the *Grenoble école de management*, a clearly western university.

[18] In the circumstances, the Officer reasonably concluded the proposed course of studies would constitute a redundancy given the Applicant's academic qualifications and professional experience. The Applicant's reliance upon *Fallahi v Canada (Citizenship and Immigration)*, 2022 FC 506 at paras 13–14) is, with respect, misplaced. The Officer provided an internally coherent and rational chain of analysis in reaching his conclusion about the utility of the Program.

(2) The Officer's assessment of the Applicant's ties to his country of residence

[19] The Officer acknowledges that the Applicant would initially be travelling without his spouse and children but went on to conclude the ties to Iran were insufficient to motivate the

Applicant's departure from Canada. The Officer is presumed to have considered all of the evidence. The Applicant stated that he intended to bring his entire immediate family to Canada on a Temporary Resident Visa. It follows that the Applicant's own assertion would weaken his family ties to Iran.

[20] In addition to weakened family ties that stem from the Applicant's declared intention to bring his family to Canada, his professional ties to Iran are weak in that there is no permanent job awaiting him upon his return to Iran. There is no evidence that he would do other than continue working on a contract basis.

[21] The Applicant contends that the Officer made veiled credibility findings. He says: "In all circumstances, an officer must explain why an applicant's evidence is insufficient... This requirement protects against "veiled credibility findings," that is, credibility determinations disguised as insufficiency". He relies upon the decision of this Court in *Opakunbi v Canada (MCI)*, 2021 FC 943, at para 12). I respectfully disagree. The Officer made no veiled credibility findings. He simply assessed the record that was before him – information that militates against the Applicant's intention to return to Iran and that militates against the reasonableness of the Applicant's proposed course of studies.

- (3) The proper balancing of mitigating and aggravating factors against the current economic and security situation in Iran as they relate to the Applicant's situation

[22] The Officer's notes state, "When I consider these elements and balance them against the current economic and security situation in Iran and how it relates to the applicant, I am not

satisfied that applicant is a genuine student who would leave Canada at the end of authorized stay”.

[23] Although the Officer considered that the Applicant prepaid his tuition for the first year of his two-year academic program, the Applicant only has \$12,414.68 CAD on deposit in his name. His wife has \$13,925 CAD in a similar account. However, these funds will quickly be disbursed given the Applicant’s own assessment that his room and board will cost approximately \$15,000 CAD per year.

[24] Finally, the Applicant submits that the Officer’s conclusion regarding security issues and economic circumstances in Iran amounts to a *de facto* refusal of all Iranian applicants. I disagree. The Officer simply measured the weak pull factors back to Iran, against his own knowledge of country conditions in Iran. Officers considering such matters are presumed to know country conditions better than the Courts. Such matters constitute their expertise. Deference is owed.

#### VIII. Conclusion

[25] The refusal letter and the GCMS notes adequately explain the basis upon which the Officer found the Applicant not to be a *bona fide* student. As evidenced by the Officer’s reasons, he meaningfully engaged with, and considered, the key issues and central arguments raised by the Applicant.

[26] Although the Officer did not address every argument advanced by the Applicant, his reasons are robust and meet the hallmarks of reasonableness. They are, in my view, justified, intelligible and transparent (*Vavilov* at para 95).

[27] I dismiss this application for judicial review, without costs.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the application for judicial review is dismissed, without costs. As the present matter raises no serious question of general application, and none was proposed by either party, there is no question for certification for the Federal Court of Appeal.

“B. Richard Bell”

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Judge

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

**DOCKET:** IMM-4130-22

**STYLE OF CAUSE:** HOSEIN KHAZAIE v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** NOVEMBER 23, 2022

**JUDGMENT AND REASONS:** BELL J.

**DATED:** MARCH 2, 2023

**APPEARANCES:**

Samin Mortazavi FOR THE APPLICANT

Mary E. Murray FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Pax Law Corporation FOR THE APPLICANT  
North Vancouver, British  
Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia