

Federal Court



Cour fédérale

**Date: 20230404**

**Docket: IMM-1247-22**

**Citation: 2023 FC 481**

**Ottawa, Ontario, April 4, 2023**

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

**BETWEEN:**

**TIBOR SALLAI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Tibor Sallai, seeks judicial review of a decision dated January 28, 2022, by a Senior Immigration Officer (the “Officer”) with Immigration, Refugees and Citizenship Canada (“IRCC”). The Officer refused the Applicant’s application for permanent residence on humanitarian and compassionate (“H&C”) grounds, pursuant to subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The Officer found that upon considering the adverse country conditions, health factors, establishment in Canada, and the best interests of the children (“BIOC”), an H&C exemption is not warranted in the Applicant’s case.

[3] The Applicant submits that the Officer breached procedural fairness by failing to consider a package of submissions and documents, and unreasonably disregarded certain evidence regarding the Applicant’s medical needs and discrimination facing him as a Roma person.

[4] For the reasons that follow, I find the Officer’s decision is unreasonable. This application for judicial review is granted.

## **II. Facts**

### **A. *The Applicant***

[5] The Applicant is a 47-year-old citizen of Hungary. He is ethnically Roma. The Applicant has resided in Canada for approximately 11 years. He has a half-brother who resides in Canada, and two sisters who reside in Hungary.

[6] The Applicant first entered Canada on August 30, 2011. He made a claim for refugee status in October 2011. The Applicant’s claim was that he experienced ongoing discrimination throughout his life as a Roma person in Hungary, and that he was seriously attacked on three separate occasions for his Roma ethnicity.

[7] On September 27, 2012, the Applicant was charged with one count of mischief and three counts of theft under sections 430(4) and 334(b) of the *Criminal Code*, RSC, 1985, c C-46, respectively. The Applicant was previously convicted of two counts of theft in Hungary in 2007 and 2009, receiving probation of approximately six months for each conviction. He has not had any further criminal charges after 2012.

[8] In January 2015, the Applicant's refugee claim was refused in a decision by the Refugee Protection Division ("RPD"). The RPD found the determinative issue to be the Applicant's credibility and the availability of state protection. The Applicant filed for leave and judicial review of the RPD decision, but leave was refused by this Court on June 19, 2015.

[9] On March 30, 2015, the Canadian Border Services Agency ("CBSA") informed the Applicant that his removal was scheduled for May 13, 2015. The Applicant's counsel at the time, Joseph Farkas (Mr. "Farkas"), filed a motion to stay the Applicant's removal on May 11, 2015, just two days before his removal. This Court denied the stay motion.

[10] The Applicant did not appear for his removal on May 13, 2015. He claims that shortly before his removal date, he received a letter from his sister in Hungary, notifying him that a group of Nazis threatened her family and she was forced to relocate. Her new residence did not have space for him and he would therefore not have anywhere to stay upon return to Hungary, which is why he did not appear for his removal.

[11] The Applicant initiated a Pre-Removal Risk Assessment (“PRRA”) on September 20, 2019, which was also refused on January 3, 2020. The officer assessing the PRRA application found that the Applicant did not provide different material or evidence that had not already been assessed by the RPD in his refugee claim. The Applicant filed for leave and judicial review of the PRRA decision, but leave was refused by this Court on September 21, 2020.

[12] On May 31, 2021, CBSA informed the Applicant that his removal was scheduled for July 7, 2021. The Applicant made a request to defer his removal, but CBSA denied the deferral request on June 22, 2021. The Applicant filed a motion to stay his removal pending the determination of a judicial review of CBSA’s refusal of his deferral request. This Court granted the stay motion on July 6, 2021.

[13] The Applicant also submitted the underlying application for permanent residence on H&C grounds on May 31, 2021. The Applicant based this application on the risk and adverse country conditions as a person of Roma ethnicity in Hungary, health considerations, his establishment in Canada over 11 years, and the BIOC affected by removal.

B. *Decision Under Review*

[14] In a decision dated January 28, 2022, the Officer refused the Applicant’s permanent residence application on H&C grounds.

(1) Refugee Claim

[15] The Officer's reasons provided a summary of the RPD's refusal of the Applicant's refugee claim. The Officer noted that the Applicant's refugee claim asserted that he had been attacked on three separate occasions because of his Roma ethnicity: 1) in October 2004, he was attacked by a skinhead group of 20-25 people; 2) in May 2007, he was waiting for the streetcar with his girlfriend when he was attacked with beer bottles and left unconscious; and 3) in December 2009, he and his cousins were allegedly threatened and pursued in a vehicle by the Hungarian Guard, causing a car accident that resulted in the Applicant's serious injury and hospitalization.

[16] The RPD did not find that the claimant established that he faced a serious possibility of persecution or risk to his life arising from the December 2009 incident, with no information to corroborate that the Applicant and his cousins were chased in a car by Hungarian Guard members, as he claimed. The RPD also found that the Applicant's testimony and evidence surrounding the alleged attacks in October 2004 and May 2007 contained omissions and inconsistencies that undermined the credibility of these claims. The RPD found that the Applicant's claim lacked credibility, but that he had established that he is Roma and that there are serious issues facing Roma people in Hungary. The RPD also found that the Applicant did not provide credible evidence to rebut the presumption of state protection.

[17] The Officer noted the Applicant's submission that he was represented by Mr. Farkas for his refugee claim, who was later found to have engaged in professional misconduct by the Law

Society of Ontario. The Applicant claimed that had he been properly represented, his refugee claim may have been successful. The Officer found this to be speculative and stated that the RPD conducted an independent assessment of the Applicant's claim. The issue of Mr. Farkas's representation was therefore insufficient to grant an H&C exemption.

(2) Risk and Adverse Country Conditions

[18] The Officer noted that section 25(1.3) of *IRPA* prohibits a decision-maker assessing an H&C application from considering factors assessed in a claim for refugee status or protection. However, the Officer stated that elements related to hardship must be examined, which include adverse country conditions that have a direct impact on the Applicant.

[19] As in his refugee claim, the Applicant's H&C application also asserts that he was the victim of three violent attacks due to his Roma ethnicity, in October 2004, May 2007 and December 2009. In his H&C application, the Applicant submitted additional corroborative documents regarding these alleged attacks: an article regarding a car accident and translation, a report from Dr. Harvey Fong dated October 29, 2014, and three letters of support.

[20] The Officer found that the article about the car accident does not mention the names of the passengers or the reason for the accident, without which the article has little probative value to support the Applicant's claim that he was chased in a car by the Hungarian guard, resulting in a car accident. The Officer further found that the letters—that were written by the Applicant's friend, sister, and a family member—are either vague, lack details, or are altogether insufficient to overcome the RPD's credibility findings regarding the Applicant's claims. The Officer

granted considerably more weight to the RPD's findings than to the additional documents presented in the H&C application, which reiterate the same narrative that was presented and assessed in the Applicant's refugee claim.

[21] The Officer acknowledged the Applicant's claim that Roma people in Hungary have faced historical discrimination and are the victims of increasing violence by extremists and law enforcement. The Applicant asserted that he has faced such discrimination throughout his life, was often stopped randomly by police, found it more difficult to find employment, and was paid less than non-Roma colleagues. The Officer also acknowledged the Applicant's supporting letters that reiterate the discrimination faced by Roma people in Hungary.

[22] The Officer noted the Applicant's submission that if he were to return to Hungary, he would not have a place to live, as his sister and her family were evicted from their home, his brother lives in a homeless shelter, and he has no relationship with his other sister. He asserted that Roma people face difficulty finding housing and employment due to discrimination. The Officer noted that the writ of execution for the Applicant's sister's eviction does not state the reason, and the eviction occurred seven years ago. The Officer accepted that there are instances of discrimination against Roma people in regards to housing, but also found that there are multiple organizations available to the Roma community to access housing, according to an Immigration and Refugee Board ("IRB") report published in January 2018. The Officer ultimately found that this evidence mitigates the hardship the Applicant might face in finding housing upon his return, and while the Applicant's sister may not be able to provide him with

housing or financial support, there is little evidence to show that she would not be able to guide or assist him in accessing housing himself.

[23] The Applicant submitted that Roma people face disproportionate difficulties in finding employment, are paid less for the same work due to discrimination, and that the COVID-19 pandemic has further exacerbated this disparity. The Officer noted that the Applicant left his job as a painter in Hungary before coming to Canada, but did not explain why he did so, how he was aware that he was paid less for the same work, or indicate any complaints he made to his employer about his pay. The Officer accepted that returning to Hungary after 10 years in Canada would make it difficult to find work and exacerbate any existing barriers to employment, but noted that the Applicant was able to benefit from social assistance in Hungary and could presumably do so again. The Officer further noted that there is evidence pointing to employment programs for disadvantaged communities in Hungary. The Officer was ultimately not persuaded that the Applicant would be unable to meet his basic needs upon return to Hungary.

[24] The Applicant submitted that the COVID-19 pandemic has disproportionately affected the Roma population in Hungary, due to systemic discrimination and high rates of poverty among Roma people. The Officer cited an IRB report discussing the treatment of Roma people in the Hungarian healthcare system, which states that all patients have the right to access adequate and accessible medical care and treatment, regardless of ethnicity. The Officer accepted that there are inequities in healthcare and that the Roma people have been disproportionately affected by the pandemic, but noted that medical care cannot be denied based on one's ethnicity in Hungary and the Applicant had received medical care on several occasions.



The Officer therefore found little personalized evidence to support that the Applicant had been subject to discrimination in seeking medical care due to his Roma ethnicity.

[25] The Officer found that despite the systemic barriers and inequities facing the Roma community in Hungary, the Applicant provided insufficient evidence that the state is unwilling and unable to provide redress to Roma people to lessen the negative impacts of discrimination. The Officer cited an IRB request for information report that states that although there were issues with police officers conducting effective investigations on the mistreatment of Roma people, anyone can make a complaint against a police officer and many such complaints have been made by Roma people. Authorities such as the Equal Treatment Authority (“ETA”) are responsible for combating discrimination in all sectors and on all grounds. The Officer concluded that although some weight should be granted to the hardships facing Roma people in Hungary, the Applicant has provided insufficient evidence to demonstrate that he would not be able to gain employment, access social benefits, access medical care, obtain adequate housing, and pursue redress mechanisms should he require them.

(3) Health Considerations

[26] The Officer noted the Applicant’s submission that he has several serious medical issues, which is corroborated by medical reports citing his conditions. The report from Dr. Allanah Li (Dr. “Li”) dated June 3, 2021, states that without access to adequate medical care, the Applicant is at risk of developing complications relating to his conditions. The Applicant submitted that he would not be able to access adequate medical care in Hungary because access is limited for indigent individuals, he is unable to afford insurance or remuneration for healthcare services, and

while he may be able to access social benefits, he may not receive them for several months after his return. The Officer accepted that the Applicant has the conditions that are described in the medical reports, but noted that the steps he would need to take to acquire social benefits are imposed by many countries, and that he was able to access such necessary steps to access medical care in Canada. The Officer further noted that the Applicant was previously able to obtain medical care several times in Hungary and did not provide evidence to indicate that he had issues accessing medical care on these occasions. The Officer ultimately found that medical care would be available to the Applicant if needed, contingent on the Applicant obtaining the necessary documents to access the healthcare system in a timely manner.

[27] On the Applicant's submission that he is particularly vulnerable to contracting COVID-19 due to his existing health conditions and it is unreasonable for him to travel due to the risk of transmission, the Officer noted that this risk is undetermined and information is consistently changing, but ultimately granted this factor some weight.

(4) Establishment

[28] The Officer acknowledged that the Applicant has acquired positive establishment in Canada, including his involvement at his church, his periods of employment, and his personal connections. However, the Officer noted that the Applicant has remained unemployed for a large portion of his stay in Canada and his relationships are not interdependent to the extent that his removal would be detrimental to him or his friends. The Officer ultimately granted the Applicant's establishment in Canada neutral weight.

(5) BIOC

[29] The Applicant submitted that prior to coming to Canada, the Applicant lived with his sister and her children and upon his arrival in Canada, used to send them \$100 to \$200 a month during his periods of employment. The Applicant submitted that it is in the children's best interest for the Applicant to remain in Canada and work to assist them financially, particularly given that the Applicant's sister is a single mother. The Officer found that while the Applicant may have assisted his niece and nephew in the past, there is no evidence regarding how many times he did so and for how long. The Applicant was also unemployed for at least half of the time he has been in Canada, during which time he could not have been supporting his sister's children. The Officer found insufficient evidence to establish that the children are dependant on the Applicant's income and that ultimately, the BIOC in the Applicant's case is insufficient to grant an H&C exemption.

[30] For the above reasons, the Officer found that the Applicant's circumstances and evidence do not warrant granting an H&C exemption.

**III. Issues and Standard of Review**

[31] This application for judicial review raises the following issues:

- A. *Whether the Officer's decision is reasonable.*
- B. *Whether there was a breach of procedural fairness.*

[32] The applicable standard of review of the Officer's decision is reasonableness (*Zhang v Canada (Citizenship and Immigration)*, 2019 FC 764 at para 12). The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 ("*Canadian Pacific Railway Company*") at paras 37-56; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35)). I find that this conclusion accords with the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("*Vavilov*") at paragraphs 16-17.

[33] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13; 75; 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole 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). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[34] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than

superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100; *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156 at para 36).

[35] Correctness, in contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, [1999] 2 SCR 817 at paragraphs 21-28 (*Canadian Pacific Railway Company* at para 54).

#### **IV. Analysis**

[36] The Applicant’s submissions focus on two specific factors on judicial review: 1) his health conditions and his inability to access adequate medical care if returned to Hungary, and 2) his experiences of discrimination as a member of the Roma community in Hungary. The Applicant further submits that the Officer breached the duty of procedural fairness owed to the Applicant by failing to consider a package of documents that directly concern these two issues.

[37] The Respondent maintains that the Officer reasonably assessed all H&C factors, including the health considerations and the discrimination against the Roma community, and that there is no merit to the Applicant’s submission regarding procedural fairness.

[38] In my view, the Officer conducted an unreasonable assessment of the Applicant’s evidence and submissions regarding his medical conditions and the systemic discrimination faced by the Roma people of Hungary. Although both parties spent considerable effort into

making submissions on procedural fairness, I find the reasonableness issue to be determinative of this judicial review.

A. *Health Considerations*

[39] The Applicant submits that he has several serious health conditions, corroborated by the medical reports included in evidence and for which he would be unable to access adequate medical care if returned to Hungary. The Applicant notes that Dr. Li, his family physician, wrote a letter stating that he requires routine monitoring and regular medical services to mitigate complications related to his liver disease and without access to adequate care, he is at risk of developing complications that include death. The Applicant further notes that he is waiting for surgery for his abdominal hernia and is at risk of complications without ongoing treatment. He also suffers from chronic pain, chronic asthma, and hypertension.

[40] The Applicant submits that the Officer erroneously concluded that he would have access to free medical care in Hungary by selectively relying on excerpts from certain reports. The Applicant notes that a full examination of these reports reveals significant caveats to free healthcare, which is only available to those who are eligible. Eligibility requires the payment of a social contribution and secured employment. The Applicant submits that those who are unemployed and cannot pay an insurance premium are ineligible for medical care and he would therefore be unable to access care upon his return. The Applicant submits that the Officer's conclusion on this point is based on a misconstrued and selective view of the evidence.

[41] The Applicant further submits that the Officer erroneously concluded that he would be able to overcome certain bureaucratic hurdles to access social benefits in Hungary because he was able to gather the necessary documents to receive medical care in Canada. The Applicant submits that this is an irrational assumption that unreasonably equates the two systems.

[42] The Respondent maintains that the Officer reasonably assessed the issue of the Applicant's medical care. The Respondent submits that the fact that the Applicant has several chronic medical conditions, does not wish to return to Hungary, and it may be preferable for him to remain in Canada to receive medical care, are insufficient grounds upon which to warrant an H&C exemption. The Respondent contends that the evidence confirms that the Applicant's medical conditions have been primarily managed with screening, monitoring, and pharmacology, and there are no ongoing critical care or serious medical interventions required.

[43] The Respondent submits that the Officer was entitled to find that the Applicant would have access to public health care in Hungary, based on the documentary evidence. The Respondent submits that the Applicant's submission challenging the Officer's finding on this point amounts to a request for this Court to reweigh the evidence before the Officer, which is not this Court's role on reasonableness review. The Respondent concedes that "free" may not have been an accurate descriptor of Hungarian healthcare, but submits that the Officer reasonably found that for the payment of a premium, the Applicant would have access to medical care. The Respondent further submits that the initial delay the Applicant may encounter in obtaining treatment upon his return to Hungary is an insufficient basis upon which to grant an H&C exemption. The Respondent contends that the Officer validly reasoned that the Applicant would

be able to take the necessary steps to obtain medical care in Hungary, considering he was able to navigate the foreign Canadian system to access medical care here.

[44] In my view, the Officer's assessment of the Applicant's health issues and resulting medical needs in the broader H&C assessment is unreasonable. One marker of an unreasonable decision is in its "failure of rationality internal to the reasoning process" and lack of reasoning "that is both rational and logical" (*Vavilov* at paras 101-102). The Officer makes findings about the Applicant's medical needs and ability to access care that are based in irrational premises and assumptions, and fail to accord with the Applicant's evidentiary record (*Vavilov* at 105).

[45] For instance, the Officer accepts that the Applicant suffers from several serious medical conditions, and directly references the medical reports attesting to the seriousness of these conditions, the requirement for ongoing treatment and medical care, and the risks associated with a failure to receive such care. The Officer explicitly recognizes that there are obstacles to receiving such care for the Applicant in Hungary, but then concludes that the Applicant can overcome such obstacles because he was able to do so to receive medical care in Canada.

[46] Firstly, this is a logical fallacy. It is illogical and unreflective of both the evidentiary record and the core of the Applicant's claim to equate the Applicant's ability to seek medical care in Canada with his ability to do so upon return to Hungary, where he will encounter a variety of barriers and difficulties in accessing such care due to his ethnicity and circumstances, which he did not experience while in Canada. This conclusion erroneously relies on the assumption that the same barriers exist for the Applicant to access medical care in both countries,



directly countering the evidentiary record and the core of the Applicant's claim, which the Officer already accepted. This results in an assessment that lacks coherent reasoning and rationality (*Vavilov* at para 102).

[47] Secondly, the assessment of the relevant factors in an H&C application must be "global" and the considerations "are to be weighed cumulatively as part of the determination of whether relief is justified in the circumstances," as outlined by the Supreme Court of Canada in *Kanhasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paragraph 28 ("*Kanhasamy*"). The Officer's assessment of the health considerations is a narrow and isolated view at the medical system and the bureaucracy that he must take to receive medical care. It lacks a broader and global view at how other key considerations, such as the significant evidence pointing to the historical and systemic discrimination against the Roma people of Hungary, influences and may exacerbate the delay that the Applicant may encounter in seeking the ongoing medical care that he has shown to need. This consideration of one factor in isolation to the others, particularly when they are so intrinsically intertwined, fails to accord with the legal constraints and is therefore an unreasonable assessment of the application.

[48] I note that the Respondent's written submissions state that the Officer's description of the Hungarian healthcare system as providing "free" medical care does not raise a reviewable error because, in part, this is a commonly used descriptor of medical systems that provide public healthcare in return for the payment of insurance premiums. Aside from the above reasons, I find that this reasoning exhibits an attempt by the Respondent to provide justification for the Officer's analysis on this matter where it does not appear in the reasons.

B. *Discrimination Against Roma People*

[49] The Applicant submits that the Officer ignored key evidence regarding the discrimination faced by the Roma community in Hungary, arriving at the unreasonable conclusion that the effects of this discrimination on the Applicant are mitigated by the availability of redress. The Applicant notes that the Officer accepted that the Roma community faces systemic discrimination in housing, the labour market, and in public employment, but still concluded that the Applicant provided insufficient evidence to show that the Hungarian state is unable and unwilling to provide mechanisms of redress to the Roma people to ease the effects of this discrimination.

[50] The Applicant notes that the Officer identified the police, the ETA, non-government organizations (“NGO”), and social benefits programs as mechanisms of redress. The Applicant submits that in equating the existence of a police complaint process to the availability and effectiveness of police services to redress the discrimination against the Roma population, the Officer engaged in an irrational assessment of the evidence. Similarly, the Applicant submits that the Officer makes an irrational finding by concluding that redress is available to Roma people because of the mere existence of the ETA, which is responsible for combating and raising awareness about discrimination in all forms. The Applicant notes that several documents on the record before the Officer directly question the effectiveness of the ETA and explain that it no longer exists.

[51] The Applicant also points to the documentary evidence suggesting the effectiveness of the NGOs in combating discrimination against Roma people in Hungary, and submits that the Officer unreasonably relies on the existence of NGOs to support the conclusion that this mitigates the difficulties faced by Roma people.

[52] The Respondent maintains that the Officer conducted a reasonable assessment of the discrimination against Roma people in the context of the Applicant's H&C application. The Respondent submits that the Applicant's submissions to this point amount to a mere disagreement with the Officer's assessment of the evidence and the conclusion.

[53] I disagree. In my view, the Officer's findings relating to the discrimination faced by Roma people in Hungary, and the application of this evidence to the Applicant's case, are unintelligible and irrational. The wealth of documentary evidence before the Officer shows that Roma people in Hungary are subject to historical and systemic discrimination in various aspects of society, and the effectiveness of state institutions in combating the deleterious effects of this discrimination is questionable. The record also included letters from the Applicant's friends and family that reiterated the discrimination faced by people of Roma ethnicity such as the Applicant. Although accepting that this discrimination exists, the Officer relies heavily on the existence of public programs and redress mechanisms to support the conclusion that the effects of this discrimination on the Applicant would be mitigated upon his return to Hungary. The Officer stated that although there is discrimination against Roma people in housing "there are multiple organizations available to those of the Roma community in advocating for housing rights." The Officer stated that "public employment programs" provide aid to unemployed

people in disadvantaged communities. The Officer further stated that although evidence states that police officers have often failed to conduct effective investigations on reports made by Roma people regarding ill treatment against them, “complaints against the police officers can be filed by anyone” and the ETA is “responsible for combating discrimination” and raise awareness about discrimination against the Roma people.

[54] Not only do these findings fail to accord with the evidentiary record and establish a coherent and intelligible chain of reasoning, they undermine the systemic nature and impact of the discrimination facing Roma people in Hungary, as exhibited in the evidence. As the Applicant submits, the same evidence relied on by the Officer questions the effectiveness of each of these redress mechanisms to meaningfully respond to the issue of discrimination against Roma people. However, even if these mechanisms were effective in providing adequate redress to the Applicant, the documentary evidence and the Applicant’s significant supportive evidence exhibit the prevalent discrimination facing Roma people in housing, employment, accessing medical care, among other facets of society. This is not solved, let alone mitigated, by the mere existence of complaint processes or advocacy organizations. The effects of systemic discrimination are intersectional and intertwined. Such a conclusion is incongruous with the evidentiary record and with the reality of systemic discrimination on the basis of ethnicity. For these reasons, I find that the Officer’s assessment of this consideration is unreasonable.

## **V. Conclusion**

[55] This application for judicial review is granted. The Officer’s assessment of the Applicant’s health considerations and the discrimination facing Roma people lacked rationality

and logic, and failed to accord with the evidentiary record. No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-1247-22**

**THIS COURT'S JUDGMENT is that:**

1. This application for judicial review is granted. The decision under review is set aside and the matter remitted back for redetermination by a different officer.
2. There is no question to certify.

“Shirzad A.”

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Judge

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

**DOCKET:** IMM-1247-22

**STYLE OF CAUSE:** TIBOR SALLAI v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 25, 2023

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** APRIL 4, 2023

**APPEARANCES:**

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