

Federal Court



Cour fédérale

**Date: 20230907**

**Docket: IMM-7613-22**

**Citation: 2023 FC 1209**

**Ottawa, Ontario, September 7, 2023**

**PRESENT: The Honourable Madam Justice Tsimberis**

**BETWEEN:**

**MAJEDEH MORADBEIGI AND  
SEYEDMOHAMMAD AHMADI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] This is the judicial review of a decision of a visa officer [Officer] refusing the application for a study permit of Majedeh Moradbeigi [the Principal Applicant or PA] and by extension, dependent applicant Seyedmohammad Ahmadi's [Spouse] [Spouse and PA collectively referred to as "Applicants"] application for an open work permit, as the Officer was not satisfied the PA

would leave Canada at the end of her stay pursuant to s. 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] For the reasons that follow, this Court allows this application for judicial review.

## II. **Factual Background**

[3] The PA and her Spouse are citizens of Iran. On April 27, 2022, the PA applied for a study permit in order to complete the Post Baccalaureate Diploma in Business Administration [Program] at Thompson Rivers University in Kamloops, British Columbia. Her studies were to commence in September 2022. Also on April 27, 2022, her Spouse applied for an open work permit in Canada.

[4] In her accompanying study plan, the PA explains that she has undergraduate and graduate degrees in chemistry and that she has been working as a Laboratory Supervisor at Noor Pathobiology Laboratory [Employer] since 2016. With respect to her study plan and career prospects, the PA explains that she is seeking the Program because it is suited for those who have a non-business degree and want to acquire a speciality in business and the Program covers business basics including operations, finance, marketing, human resources, and management. Once back in Iran, she plans to start a business in her hometown and employ local people. She also notes that she has a tempting job offer from Noora Parto Yooshij Heliya Company for the position of director of the research and development department where she would be responsible for estimating the life cycle of products, developing marketing strategies, and estimating market capacity to determine production rate. For this position, the PA states she needs to develop the

necessary knowledge and skills that would be made possible by participating in the Program. Moreover, her monthly income would triple if she takes this position.

[5] The PA also highlights her reasons to return to Iran, including her job offer at Noora Parto Yooshij Heliya Company, an opportunity that she does not want to lose. Moreover, her assets and financial resources are located in Iran as well as her job insurance, which she says is worth a lot after her retirement. She also notes that she and her family cannot spend time apart for long periods. Finally, she wants to set up her business company with the knowledge and experience she will acquire from the Program.

[6] On June 21, 2022, the PA was informed that her study permit application was refused [Decision]. She seeks judicial review of that Decision.

### III. **Decision under Review**

[7] On June 21, 2022, Immigration, Refugees and Citizenship Canada [IRCC] issued the Officer's Decision to refuse the PA's student visa application. In that letter, the Officer found that they were not satisfied that the PA will leave Canada at the end of her stay as required by s. 216(b) of the *IRPR* based on the following two factors:

- A. the PA does not have significant family ties outside Canada; and
- B. the purpose of her visit to Canada is not consistent with a temporary stay given the details she provided in her application.

[8] The relevant Global Case Management System [GCMS] notes are reproduced below:

*I have reviewed the application. I have considered the following factors in my decision. The applicant is 31 year old Iranian national. The applicant is requesting a study permit to attend Post-Baccalaureate Diploma in Business Administration at Thompson Rivers University. Client has obtained Bachelor of Pure Chemistry in 2011 and Master of Clinical Biochemistry in 2014. Client has worked as Laboratory Expert from Jul 2016 till to date. On review of all information including applicant's previous employment and educational history, their motivation to pursue studies in Canada at this point does not seem reasonable: PA has previous education in Clinical Biochemistry at a Master level and is currently employed as Laboratory Expert. The PA has not provided compelling reasons outlining the reason for ending previous studies and/or career in Iran to commence in a different field of studies in Canada. I note that the study plan submitted, the client states that: "I plan to start a business in my hometown and employ local people. In this way, I can create job opportunities for my fellow citizens and serve the people of my hometown; however, PA did not provide supporting details or explanation on how the proposed studies would help them achieve that. With regards to the PA's job offer/work record certificate only mentions that Client would be employed as QC Manager after graduation, there's no mention of a need for international studies in Business to secure the employment. I note that the applicant's husband is accompanying; therefore, the ties to Iran weaken with the intended travel to Canada as the motivation to return will diminish with the applicant's immediate family members residing with them in Canada. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.*

#### IV. **Relevant Legislation**

***Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]***

##### **Application before entering Canada**

**11 (1)** A foreign must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

[...]

## **Work and study in Canada**

**30 (1)** A foreign national may not work or study in Canada unless authorized to do so under this Act.

### **Authorization**

**(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.

*Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR]*

### **Issuance of Study Permits**

#### **Study permits**

**216 (1)** Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national  
(...)  
**(b)** will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;  
(...)

## V. **Issues**

[9] In this case, the issue is whether the Officer's Decision was reasonable. More specifically, the Applicants point to eight alleged errors made by the Officer that raise the following questions at issue:

- (1) Was the Decision unreasonable in light of the evidence before the Officer; and
- (2) Was there a breach of procedural fairness?

[10] Although the Applicants appear to raise an issue of procedural fairness, they make no submissions in support of it. Accordingly, in my view, the first above-mentioned issue is the only one before the Court.

VI. **Standard of Review**

[11] The Supreme Court of Canada has established that when conducting a judicial review of the merits of an administrative decision, other than a review related to a breach of natural justice and/or the duty of procedural fairness, the presumptive standard of review is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 23.

[12] If there is no breach to the procedural fairness duty, the Court will apply the *Vavilov* presumption to use the reasonableness standard of review. In that case, a court applying the reasonableness standard does not ask what decision it would have made in place of the administrative decision maker. The reviewing court does not attempt to ascertain the “range” of possible conclusions that would have been open to the decision maker, conduct a *de novo* analysis or seek to determine the “correct” solution to the problem: *Vavilov* at para 83.

[13] The law is to the effect that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from “reweighing and reassessing the evidence considered by the decision maker”: *Vavilov* at para 125.

[14] A reasonable decision is one 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. The reasonableness standard requires that a reviewing court defer to such a decision: *Vavilov* at para 85.

[15] On judicial review, this Court “must develop an understanding of the decision maker’s reasoning process in order to determine whether the decision as a whole is reasonable. To make this determination, the reviewing court asks whether the decision 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 the decision” (*Vavilov* at para 99).

## VII. Analysis

*Issue: Was the Decision unreasonable in light of the evidence before the Officer?*

### (i) Significant family ties outside Canada

[16] In my view, the Decision is unreasonable as the Officer failed to justify their conclusion that the PA does not have significant family ties outside Canada in light of the record before them. The record clearly indicates that both the PA and her Spouse have parents and siblings in Iran and the Netherlands. Given that this is one of the two factors relied upon by the Officer to deny the study permit application, this error is sufficiently central to the Decision to render it unreasonable in its entirety (*Vavilov* at para 100).

[17] In its Decision to refuse the PA’s application, the Officer was not satisfied that the PA would leave Canada at the end of her stay because the PA has not established that she would leave Canada based on the factor that the PA does not have significant family ties outside Canada.

[18] The Court agrees with the Applicants that the Officer made a reviewable error when they noted that the PA did not have significant family ties outside Canada given that the record before them indicated otherwise. Indeed, both the PA and her Spouse have family ties in Iran and the Netherlands [see e.g. CTR 48-51].

[19] In the notes, the Officer indicates: *“I note that the applicant’s husband is accompanying; therefore the ties to Iran weaken with the intended travel to Canada as the motivation to return will diminish with the applicant’s immediate family members residing with them in Canada.”*

While the Court agrees with the Respondent that it may have been open and reasonable for the Officer to weigh the PA’s ties to her husband who would be in Canada as more likely to pull the PA towards staying in Canada, in my view, the Officer must also weigh this against the evidence in the record indicating that the PA has family ties elsewhere, including in Iran. As the Honourable Madam Justice Strickland in *Vahdati v Canada (Citizenship and Immigration)*, 2022 FC 1083 made the following comment at para 10 when she found the decision under judicial review was unreasonable:

10 In my view, while it may be relevant to consider that the Spouse intends to accompany the Applicant to Canada (*Balepo v Canada (Citizenship and Immigration)*, 2016 FC 268 at paras 15-16), and, even if it is reasonable to infer from this that the Applicant’s family ties to Iran may be weakened, the problem in this case is that the Visa Officer ended their analysis there. The Visa Officer did not weigh this against: (1) the fact that all of the other members of the Applicant’s and her Spouse’s families will remain in Iran; (2) the fact that the Applicants have no family members in Canada; or (3) the other evidence in the record relevant to establishment such as the letter from the Applicant’s employer. I agree with the Applicant that in this case the Visa Officer seems to have simply applied a broad generalization in reaching their finding as to a lack of establishment.



[20] Similarly, here, the Officer makes no mention of the PA's immediate family (parents and siblings) in Iran or the Netherlands, or their lack of family ties in Canada other than the accompanying Spouse. In the notes, the Officer only reference to family ties is "*I note that the applicant's husband is accompanying*".

[21] Given that the PA did indicate that her parents and three sisters will remain in Iran and the Netherlands and her Spouse's parents and two sisters will reside outside Canada in Iran, the record does indicate that the PA has significant family ties outside Canada. This contradicts the Officer's finding that the PA does "*not have significant family ties outside Canada*". As such, the Decision is not justified in light of the factual record and unreasonable as it lacks a rational chain of analysis.

[22] Given that the purported lack of significant family ties outside Canada was one of two reasons why the Officer found that the PA would not leave Canada, the Officer was required to justify this conclusion. In my view, this error is sufficiently central to the Decision to render it unreasonable (*Vavilov* at para 100).

(ii) Purpose of visit

[23] Given the above error is sufficiently central to the Decision to render it unreasonable in my view and that the above analysis is determinative of the matter at hand, the Court has not considered whether the Officer erred in concluding that the purpose of the PA's visit is not consistent with a temporary stay.

VIII. **Conclusion**

[24] The application for judicial review is allowed. The matter will be remitted for redetermination by a visa officer not previously involved in this matter.

**JUDGMENT in IMM-7613-22**

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

1. The application for judicial review is allowed.
2. The matter will be remitted for redetermination by a visa officer not previously involved in this matter.
3. There is no question for certification.

"Ekaterina Tsimberis"

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Judge

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

**DOCKET:** IMM-7613-22

**STYLE OF CAUSE:** MAJEDEH MORADBEIGI AND  
SEYEDMOHAMMAD AHMADI v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** OTTAWA, ONTARIO

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**APPEARANCES:**

SAMIN MORTAZAVI FOR THE APPLICANTS

BRETT J. NASH FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

PAX LAW CORPORATION FOR THE APPLICANTS  
NORTH VANCOUVER,  
BRITISH COLUMBIA

ATTORNEY GENERAL OF FOR THE RESPONDENT  
CANADA  
VANCOUVER, BRITISH  
COLUMBIA