

Federal Court



Cour fédérale

**Date: 20240207**

**Docket: IMM-5105-22**

**Citation: 2024 FC 199**

**Calgary, Alberta, February 7, 2024**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**NEGAR KHANYKALAHROODY**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Ms. Negar Khanykalahroody [Applicant] is a 36-year-old citizen of Iran who applied for a Temporary Resident Visa [TRV] on February 11, 2022 to visit her husband who has lived in Canada since May 2021 under a work permit.

[2] A visa officer [Officer] refused the application on April 27, 2022 as the Officer was not satisfied the Applicant would leave Canada at the end of her authorized stay as directed by paragraph 179(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Decision].

[3] The Applicant seeks judicial review of the Decision. For the reasons set out below, I dismiss the application.

## II. Issues and Standard of Review

[4] While in her written submissions, the Applicant raises a number of arguments with respect to procedural fairness, at the hearing, counsel for the Applicant confirmed she no longer relies on the procedural fairness arguments as set out in the written submissions although counsel said the Decision was “not fair” to her client. The only issue before me is thus whether the Decision was reasonable.

[5] The parties agree that the merits of the Decision should be assessed under the standard of review of reasonableness, as required by *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65.

[6] Reasonableness is a deferential, but robust, standard of review: *Vavilov* at paras 12-13. 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 reasonable decision 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 and 133-135.

[7] For a decision to be unreasonable, the applicant must establish that 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.

### III. Analysis

[8] As with all TRV applications, the Global Case Management System [GCMS] notes contained the Officer’s reasons.

[9] At the hearing, the Applicant raised four arguments to challenge the reasonableness of the Decision, some of which differed from her arguments in the written submissions. They are:

- a. The Officer’s finding that the Applicant has strong family ties in Canada was unreasonable without mentioning the basis of that finding or any of the details in support. The Applicant’s only family tie in Canada is her husband, who is here on a temporary basis. The Applicant stated in her TRV application that she is only visiting her husband on a temporary basis and provided a lease agreement showing that her husband’s residence is also temporary, and as such, does not have a “strong family tie” in Canada;

- b. The Officer found the Applicant has not demonstrated sufficiently strong ties to her country of residence without stating what was missing in terms of her family ties. The Applicant points to her citizenship in Iran, her parents and sister who live in Iran, as well as her bank statements, education and employment history, including her fashion design business, which she established in 2020. By failing to explain how they reached their conclusion, the Applicant argues the Officer conducted an incomplete assessment;
- c. The GCMS notes state: “Taking the applicant’s current employment situation into consideration, the employment does not demonstrate that the applicant is sufficiently well established that the applicant would leave Canada at the end of the period of authorized stay.” The Applicant submits that the GCMS notes did not explain how the Officer made that determination, and why her self-employment as a fashion designer made her unlikely to leave Canada;
- d. The Officer said due to the Applicant’s socio-economic situation, the Officer was not satisfied that the Applicant would leave Canada. The GCMS notes did not explain what socio-economic situation the Officer was referring to and provided no explanation as to why the Officer made that determination. Referring to the Guideline 5256 – Applying for a Visitor Visa set out by Immigration, Refugees and Citizenship Canada [IRCC], which defines visitors to include persons who enter Canada to visit family, the Applicant argues visiting family is a valid purpose for a visitor. As such, it is unreasonable to turn a valid purpose into a ground for refusing an applicant who is coming to Canada to visit their family.

[10] Overall, the Applicant submits the Decision lacked the requisite standard of justification, transparency, and intelligibility, citing *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 [*Aghaalikhani*] in support.

[11] I reject the Applicant’s arguments.

[12] As explained by Justice Strickland in *Rahman v Canada (Citizenship and Immigration)*, 2016 FC 793 [*Rahman*] at para 16, there is a legal presumption that a foreign national seeking to enter Canada is an immigrant, and it is up to them to rebut this presumption. The onus is thus on an applicant to prove that they are not an immigrant and that they would leave Canada at the end of the requested period of stay: *Rahman* at para 16.

[13] In the context of this case, I find the Decision reasonable in light of the evidence submitted by the Applicant.

[14] With respect to her family tie in Canada, the Applicant made clear in her TRV application that she wishes to visit her husband, a close family member, who is currently living in Canada. I reject the Applicant's argument that the Officer needed to go beyond what was said in the GCMS notes to explain what the Officer meant by "strong family ties" in Canada. That finding, in my view, is self-evident. I note that in her written submissions, the Applicant does not deny her husband is a strong tie, but submits the Officer's refusal is inconsistent with the IRCC objective. By suggesting now that she does not have a strong family tie in Canada, the Applicant's reframed argument undermines her submission with respect to her need for family reunification.

[15] With respect to ties to Iran, while the Applicant stated in the accompanying form for the TRV application that she is currently self-employed as a fashion designer, she made no mention of her employment in the Explanation Letter to the Officer. Both the Explanation Letter from the Applicant and the invitation letter from her husband focus on why the Applicant wishes to come

to Canada, and the support she would get while in Canada; yet neither of the documents mention, let alone explain, any ties that the Applicant may have in her country of residence, through family relations or employment.

[16] Further, the cover letter from the Applicant's counsel in support of her TRV application did not provide any details about the Applicant's ties to her home country other than asserting that: "She has strong social, family and economic ties in Iran and cannot stay in Canada longer than her visit." I pause here to note that, in the same cover letter, counsel listed the Applicant's occupation as "unemployed." In light of the bare amount of information that she provided, the Applicant cannot fault the Officer for finding she has not demonstrated sufficiently strong ties to her country of citizenship.

[17] As to the Officer's comment about the Applicant's socio-economic situation, I find it reasonable when read in the context of the Officer's findings about the Applicant's current employment as a measurement of her establishment in Iran, and the lack of evidence about the Applicant's familial or social ties in Iran.

[18] I also find *Aghaalikhani* distinguishable on the facts, in light of Justice Gascon's finding that the applicant in that case had provided evidence demonstrating his ties to his home country: *Aghaalikhani* at para 19. Instead, I agree with the Respondent that the Officer provided sufficient rationale to support their conclusion. Further, as the Respondent points out, a visa officer is not required to provide comprehensive reasons that list all the evidence and it is sufficient to address the issues and key concerns raised by the evidence: *Singh v Canada (Citizenship and*

*Immigration*), 2017 FC 894 at para 24 and *Badhan v Canada (Citizenship and Immigration)*, 2018 FC 704 at para 21.

[19] While I acknowledge that the objective of visiting family is a factor in assessing TRV applications, this Court has also upheld as reasonable where an officer puts weight on the applicant's ties in Canada: *Ahmed v Canada (Citizenship and Canada)*, 2023 FC 50 at para 9 and *Gomes v Canada (Citizenship and Immigration)*, 2020 FC 451 at para 18.

[20] Ultimately, while the reasons are brief, I find they permit the Court to understand how the Officer arrived at the conclusion as they did. The Decision was reasonable in light of the evidence before the Officer.

#### IV. Conclusion

[21] The application for judicial review is dismissed.

[22] There is no question for certification.

**JUDGMENT in IMM-5105-22**

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

1. The application for judicial review is dismissed.
2. There is no question for certification.

"Avvy Yao-Yao Go"

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Judge



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

**DOCKET:** IMM-5105-22

**STYLE OF CAUSE:** NEGAR KHANYKALAHROODY v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD VIA VIDEOCONFERENCE

**DATE OF HEARING:** JANUARY 11, 2024

**JUDGMENT AND REASONS:** GO J.

**DATED:** FEBRUARY 7, 2024

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