Federal Court  Cour fédérale

Date: 20230420

Docket: IMM-2864-22

Citation: 2023 FC 571

Ottawa, Ontario, April 20, 2023

PRESENT: Madam Justice Walker

BETWEEN:

ROOHOLLAH FIROOZNAM

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Mr. Firooznam, is a citizen of Iran. From 2006 to 2018, he was a principal figure in a private company that installed closed-circuit cameras and environmental security and telecommunication systems in government buildings and prisons. The Applicant alleged before the Refugee Protection Division (RPD) a fear of returning to Iran because he believes he is wanted for espionage and will be tortured and killed by the Iranian authorities.

[2] The Applicant seeks the Court's review of a March 4, 2022 decision of the Refugee Appeal Division (RAD). The RAD dismissed the Applicant's appeal and confirmed the RPD's rejection of his refugee claim pursuant to Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees*, July 28, 1951, 189 UNTS 137 (Convention) and section 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*).

[3] The RAD conducted its own analysis of the record and considered the Applicant's appeal submissions. The RAD agreed with the RPD that there are serious grounds for considering that the Applicant was complicit in crimes against humanity in Iran through his involvement in the provision of cameras, security systems and monitoring services to the Iranian regime and its various security and penal elements for many years.

[4] For the reasons that follow, the application will be dismissed.

I. Background

[5] The Applicant began working at Shiraz Communications City (Shiraz) in 2006 as part of senior management. He remained with the company until he left Iran with his family in 2018. The Applicant was a shareholder in the company and became Chair of the board of directors in 2009.

[6] The main clients for Shiraz's cameras and security systems were government entities and departments, primarily the Disciplinary Force of Pars province, the Ministry of Intelligence and Security, and prisons, including Adel Abad Prison. The Ministry of Intelligence and Security is

the department responsible for domestic security in Iran (e.g., the identification of opponents of the regime and surveillance of anti-regime activists).

[7] Shiraz was integrally connected to the Iranian government. Three members of its board of directors were high ranking members of the Ministry of Intelligence for Pars province and one significant shareholder was a former Vice-President of Iran.

[8] In 2012, the Applicant founded his own company, Pars Factory, with Mr. Mohammad Nezhad, known as Sardar Nejat, a commander of the guards who protect the supreme leader of Iran and the chief commander of intelligence. At that time, the Applicant resigned as Chair of the board of Shiraz but continued to work for the company as an operational manager. He also retained ownership of his Shiraz shares.

[9] After learning in 2017 of the assassination of a former president of Iran, Mr. Rafsanjani, and witnessing corruption within the regime, the Applicant states that he sent confidential information to which he had access through Shiraz to a source outside of Iran. The Applicant also states that he interfered with the Iranian regime's security systems during anti-government demonstrations in December 2017 and August 2018 in order to support the demonstrators.

[10] The Applicant claims that he became aware in September 2018 that his activities were known to the authorities, prompting him to flee Iran for Canada.

[11] The Applicant was interviewed twice by Canadian Security Intelligence Service agents about his work in Iran. The RPD invited the Minister to participate in the proceeding in accordance with subsection 26(1) of the *RPD Rules* (SOR/2012-256) because of the possibility Article 1F(a) of the Convention applies to the Applicant's refugee claim. The Minister chose not to do so.

[12] The RPD heard the Applicant's claim over two days and issued its decision on June 22, 2021. The RPD concluded that the Applicant is excluded from refugee protection pursuant to Article 1F(a) and section 98 of the *IRPA* because there are serious grounds for considering that he was complicit in crimes against humanity in Iran. In reaching its conclusion, the panel made a number of adverse credibility findings relevant to the issue of exclusion. The RPD also conducted a detailed review of the well-documented litany of human rights abuses in Iran over many years, including "the systematic use of arbitrary detention and imprisonment; harsh and life-threatening prison conditions; and hundreds of political prisoners and detainees".

[13] The RPD was cognizant of the content of the "serious reasons for considering" standard set out in Article 1F and applied the analytical framework for complicity in crimes against humanity established by the Supreme Court of Canada (SCC) in *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 at paras 84-100 (*Ezokola*). The panel's exclusion analysis addressed each element of the SCC's test for complicity (knowledge, significance and voluntariness) in *Ezokola*. The RPD found that the Applicant knowingly and voluntarily made a significant contribution towards the criminal purpose of the Iranian regime through his

involvement with Shiraz and its provision of security systems and support services to government entities from 2006 to 2018.

[14] The Applicant appealed the RPD's decision to the RAD, seeking the admission of new evidence and arguing that the RPD erred in its assessment of Article 1F(a).

II. Decision under Review

[15] The RAD rejected the Applicant's new evidence and confirmed the RPD's analysis of Article 1F(a).

A. *The new evidence*

[16] The Applicant submitted as new evidence an affidavit dated August 12, 2021 and a series of articles and reports from government and private news sources regarding Iran generally, its Revolutionary Guard and prisons, and terrorism. The RAD reviewed the proposed new evidence against the requirements of paragraph 110(4) of the *IRPA* and the principles of newness, credibility and relevance (*Raza v Canada (Citizenship and Immigration*), 2007 FCA 385; *Canada (Minister of Citizenship and Immigration) v Sing*h, 2016 FCA 96). The panel began its analysis by noting the Applicant's failure to provide full and detailed submissions about how his new evidence met the criteria of subsection 110(4) or how the evidence related to him. Nevertheless, the panel assessed the new evidence, beginning with the Applicant's affidavit.

[17] Although the Applicant's affidavit met the requirements of subsection 110(4) because it was dated after the RPD's decision, the RAD determined that parts of the affidavit were not new,

other parts were not credible, and still other parts purported to challenge the RPD's findings. The panel found that the reiteration of the Applicant's allegations did not constitute new evidence and the sections challenging the RPD's findings were not credible as they conflicted with evidence that was before the RPD. These contradictions also gave rise to credibility concerns. Accordingly, the RAD refused admission of the affidavit.

[18] The RAD found that the Applicant's remaining documents clearly did not meet the requirements of section 110(4). The documents themselves either pre-dated the RPD's decision or their contents pre-dated the decision. Further, the Applicant could reasonably have been expected to bring these documents to the RPD's attention given he knew Article 1F was in issue in October 2020, an additional RPD hearing was held in April 2021 and a further two months passed before the RPD issued its decision.

B. *The RAD's Ezokola analysis*

[19] The Applicant's appeal to the RAD challenged the RPD's assessment of complicity under Article 1F(a), in large part on the basis that he never belonged to any of the criminal arms of the Iranian government. In the present case, the RPD and the RAD assessed the Applicant's complicity in the regime's criminal human rights abuses through his involvement with Shiraz.

[20] Although the RAD accepted the Applicant's argument that the RPD had conflated Shiraz with the Iranian regime and its various entities, the RAD nonetheless found that Shiraz was a contractor for the Iranian government and that the company effectively operated as a branch or arm of the government. The RAD based its finding on the purpose of the surveillance systems

supplied by Shiraz, its very close ties with the government and the fact that the government and its security and penal entities were Shiraz's main clients.

[21] Voluntary contribution: The RAD found that the Applicant's contribution to the Iranian government's crimes and criminal purpose through Shiraz was voluntary. He joined the company in 2006 in a leadership role and continued working for Shiraz after founding his own company. He was not under pressure to remain and testified that he stayed because he was a shareholder and provided his expertise in the field to Shiraz. The Applicant had the opportunity to leave Shiraz but chose to stay. The fact that he did not belong to the criminal organization itself was not determinative of the question of complicity.

[22] Significant contribution: The RAD rejected the Applicant's argument that his contribution to the criminal acts of the government was not significant. The panel found that the cameras and security systems installed by Shiraz facilitated the daily operations of prisons and detentions centres that carried out human rights abuses and crimes. Without the cameras, the centres' security systems would not exist and the monitoring of detainees, a critical aspect of the regime's criminal activity, would not be possible. With respect to the Applicant himself, he had leadership roles in Shiraz and direct involvement with the installation and maintenance of the surveillance cameras and systems in prisons and other locations. He was onsite once or twice a month for over 10 years. The RAD also found the Applicant was not credible in his assertion that he had no knowledge of the regime's criminal purpose until 2017.

[23] Knowing contribution: The RAD's adverse credibility findings figured prominently in its assessment of when the Applicant knew of the human rights crimes occurring in the prisons and detention centres in which Shiraz installed security systems. The RAD set out at length the RPD's analysis of the Applicant's contradictory testimony on the issue of his knowledge of the conditions and mistreatment of detainees. The panel found no error in the RPD's reasoning. The RAD also noted that the Applicant was aware of the problems that had resulted in his brother's asylum claim 20 years earlier and the reasons for which his friend, a high-ranking official in the Ministry of Intelligence and Security, claimed asylum in Sweden in 2009. The RAD considered the Applicant's influence within Shiraz, his trips to prisons over many years and the level of collaboration with the company's clients required in his work. These considerations, coupled with the prevalence of crimes against detainees by the Iranian regime, resulted in the RAD's conclusion that the Applicant was aware or ought to have been aware that his conduct assisted in furthering the criminal purpose of the Iranian regime before 2017.

[24] In conclusion, the RAD endorsed the RPD's finding that the Applicant was complicit in crimes against humanity in Iran. There were serious reasons for considering that his contribution to the criminal purpose of the Disciplinary Force of Pars province, the Ministry of Intelligence and Security, and the country's prisons was knowing, significant and voluntary:

> The [Applicant] knowingly and voluntarily made a significant contribution towards the criminal purpose of the Iranian regime and its elements through his involvement with Shiraz in providing the equipment and installation of security systems and ongoing support system to these entities from 2006 until he left Iran in 2018.

III. Analysis

[25] The Applicant submits that (1) the RAD erred in refusing to admit his new evidence and (2) the RAD's assessment of Article 1F(a) and his exclusion from refugee protection in Canada contains a number of errors that undermine its rejection of his appeal.

[26] The RAD's refusal of the Applicant's new evidence and the merits of its decision are subject to review by this Court for reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 23 (*Vavilov*); *Kanawati v Canada (Citizenship and Immigration)*, 2020 FC 12 at para 9; *Okunowo v Canada (Citizenship and Immigration)*, 2020 FC 175 at paras 27–28).

A. *Admissibility of new evidence – section 110(4) of IRPA*

[27] The starting point for my analysis of the admissibility of new evidence before the RAD is the premise that the appeal of an RPD decision is intended to be paper-based (*Ching v Canada (Citizenship and Immigration)*, 2015 FC 725 at para 59). A RAD appeal is not a second chance to submit evidence to answer weaknesses identified by the RPD (*Abdullahi v Canada (Citizenship and Immigration)*, 2016 FC 260 at para 15):

> [15] In other words, responding to an inadequacy identified by the RPD in a party's case cannot be a legitimate foundation for the party to claim that had she known about the deficiency she could have presented better evidence that was always in existence from persons that could have been called, in this case from her cousin. This would make the RPD process a monumental waste of time, which is surely not Parliament's intention in providing appeal rights.

[28] The Applicant's principal argument challenging the RAD's rejection of his new evidence is that he could not have anticipated a number of the assumptions made by the RPD in the course of its *Ezokola* analysis. For example, he states that he could not have known that the RPD would assume that Shiraz is a criminal organization or that his contribution to Shiraz and the criminal abuse of human rights in Iran was significant.

[29] The Applicant's arguments are not persuasive for three reasons.

[30] First, the Applicant was aware that Article 1F(a) was at issue before the RPD and had ample time to submit evidence in support of his position that he was in no way complicit in human rights abuses and crimes in Iran. The RPD hearing took place over two days and the Applicant was represented by counsel during the RPD process. In fact, the record contains submissions from counsel regarding the application of Article 1F. Those submissions are dated November 9, 2020, well before the second day of the RPD hearing.

[31] Second, I do not agree with the Applicant's submission that he could not have anticipated a number of the RPD's conclusions. The RPD's analysis of the three elements of the *Ezokola* test for complicity derives directly from the Applicant's own evidence of his role and work at Shiraz and the identity and composition of the company's clients. The Applicant may disagree adamantly with the specific findings the RPD drew from the evidence but his disagreement does not permit the introduction of new evidence on appeal. In my view, the Applicant's new evidence can reasonably be characterized as an impermissible attempt to address weaknesses in

his case identified by the RPD (*Eshetie v Canada (Citizenship and Immigration)*, 2019 FC 1036 at para 33; *Hassan v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 459 at para 24).

[32] Third, the RAD reasonably rejected those parts of the affidavit that simply reiterate the Applicant's appeal submissions and contest the RPD's findings. The panel's analysis of the remaining parts of the affidavit against the Applicant's testimony is measured and relies on specific contradictions between the testimony and affidavit. The Applicant has not identified any error in the RAD's resulting negative credibility inferences.

[33] In summary, I find no reviewable error in the RAD's analysis of the admissibility of the proposed new evidence.

B. *The RAD's analysis of exclusion under Article 1F and Ezokola*

[34] There is no dispute that the Iranian regime, via its prison system, the Disciplinary Force of Pars province and the Ministry of Intelligence and Security, committed grave and widespread crimes against humanity during the relevant period (2006-2018). The issue in this application is whether the RAD's analysis of the Applicant's complicity in those crimes against the *Ezokola* framework is reasonable.

[35] The Applicant submits that the RAD conflated his voluntary membership in a private company, Shiraz, with the Iranian regime and its commission of human rights crimes and abuses. He also submits that the RAD erred in concluding that he knowingly contributed to the crimes and criminal purposes of the regime before 2017.

1. Legal Framework

[36] Section 98 of the *IRPA* provides that "[a] person referred to in section E or F of Article 1 of the Refugee Convention is not a Convention refugee or a person in need of protection". The present case engages Article 1F(a), which provides that the Convention does not apply to any person with respect to whom there are serious reasons for considering have committed a crime against humanity as defined in the relevant international instruments.

[37] In *Ezokola*, the SCC set out the three key components of the test for complicity under Article 1F(a): a person is complicit in crimes against humanity if there are serious reasons for considering that they have voluntarily made a significant and knowing contribution to the perpetrator's criminal purpose or to an offence contrary to the *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24 (*Ezokola* at paras 29, 77 and 84; *Sarwary v Canada (Citizenship and Immigration)*, 2018 FC 437 at para 30 (*Sarwary*)). The significance of the contribution must be assessed against the crimes or criminal purposes of the perpetrator(s) (*Bedi v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1550 at para 26).

[38] Guilt by association or passive acquiescence is not sufficient to conclude that there is complicity (*Ezokola* at paras 3, 53). There must be a link between the individual and the crime or criminal purpose of the perpetrator sufficient to ground a significant contribution.

[39] The SCC suggested a non-exhaustive list of six factors to guide a decision maker in assessing whether an individual has made a voluntary, significant and knowing contribution to the crime(s) or criminal purpose(s) of the perpetrating organization (*Ezokola* at para 91):

> (i) the size and nature of the organization;
>
> (ii) the part of the organization with which the refugee claimant was most directly concerned;
>
> (iii) the refugee claimant's duties and activities within the organization;
>
> (iv) the refugee claimant's position or rank in the organization;
>
> (v) the length of time the refugee claimant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose; and
>
> (vi) the method by which the refugee claimant was recruited and the refugee claimant's opportunity to leave the organization.

[40] The evidentiary burden of proof in Article 1F(a) cases is "serious reasons to consider", a burden requiring more than a mere suspicion but less than the balance of probabilities (*Ezokola* at para 101). This burden falls on the party seeking the claimant's exclusion (*Ezokola* at para 29).

2. Did the RAD conflate Shiraz with the Iranian government?

[41] The Applicant argues that the RAD, like the RPD, failed to demonstrate that he was part of the Iranian regime or the governmental organizations and entities named by the panel. The two decision makers simply assumed that he was part of regime. In fact, he was a shareholder and employee of Shiraz, a private company that did not perpetrate any of the acknowledged abuses in Iran during the relevant period. In the Applicant's view, the RAD's error lays in its conflation of Shiraz and the government.

[42] The Applicant's argument requires consideration of the scope of the SCC's requirement of significant contribution and its warning against guilt by association. The argument also highlights the importance of the particular facts of each case, a point of particular emphasis in *Ezokola*.

[43] I do not find the Applicant's argument persuasive. The absence of direct membership on his part in the Iranian organizations committing human rights crimes is not fatal to a finding of exclusion pursuant to Article 1F(a). The *Ezokola* test is necessarily engaged only when an individual's contribution to a criminal enterprise is indirect (*Canada (Citizenship and Immigration) v Alamri*, 2023 FC 203 at para 28).

[44] The SCC's test of knowing, voluntary and significant contribution to international human rights crimes does not require that a person be a part of the group carrying out the crimes. The test does not rely on formal structure (*Ezokola* at para 29):

> [29] … [w]e conclude that an individual will be excluded from refugee protection under art. 1F(a) for complicity in international crimes if there are serious reasons for considering that he or she voluntarily made a knowing and significant contribution to the crime or criminal purpose of the group alleged to have committed the crime.

[45] The decision maker's focus must remain on the individual's contribution to the crime or criminal purpose, not their formal or titular position or role in the perpetrator (*Ezokola* at para 92). The fact that the Applicant's complicity in the criminal acts of the actual perpetrators arose through his work for a separate corporate entity cannot alone shield him from exclusion

pursuant to Article 1F(a). Otherwise, the SCC's *Ezokola* test becomes dependent on form and not substance.

[46] The RAD agreed with the Applicant that the RPD conflated Shiraz with the security and penal branches of the Iranian government. The RPD failed to consider the fact that the Applicant was not directly involved in those entities. However, the RAD undertook the missing piece of the RPD's analysis.

[47] The RAD acknowledged that the Applicant was employed by Shiraz and that its equipment was used by the Iranian regime and its criminal elements. The RAD stated:

> [28] … [G]iven the nature of the work that was done by the Appellant's company and the Appellant, the close ties that the company had with the government and the connection that the company had with high-ranking members of the Ministry of Intelligence of Pars province and a former vice president of Iran, that the government was the main client of Shiraz and that the Appellant had knowledge of the abuse in prisons (based on my findings below), I find, on a balance of probabilities, that the Appellant's company was a contractor for the Iranian government, or put another way, an arm or branch of the government.

[48] The Applicant has identified no factual error in the RAD's summary of the close ties between Shiraz and the Iranian government or in its statement that the governmental entities in question were Shiraz's primary clients. It is clear in the decision that the RAD remained cognizant of the fact that the Applicant's individual complicity in the human rights crimes of the Iranian intelligence and penal regime could only be assessed by linking his work as a member of Shiraz's management, the supply of surveillance systems to prisons in Iran and the criminal purpose and crimes carried out in those prisons.

[49] The Applicant argues that the RAD unreasonably extended the application of the *Ezokola* test to any individual employed by the many organizations that were either controlled by the Iranian regime or supplied goods or services to the regime. I do not agree because the Applicant's argument ignores the panel's rigorous application of the test to the facts of this case. The Applicant was a senior executive of Shiraz for over 10 years who, in the course of his work, was on site at the company's primary clients. He collaborated with the clients' personnel to ensure that Shiraz's cameras and surveillance systems responded to the requirements of the client institution. Shiraz itself had close ties to the Iranian government. The very nature of its products facilitated the covert abuse and torture endemic in Iranian surveillance and penal system. Each of these facts narrowed the scope of the RAD's analysis from the mere existence of some association with the regime to a specific and important connection to the criminal purposes, crimes and abuses of the system. The Applicant's floodgates argument is not persuasive.

[50] As a result, I find that the RAD did not conflate Shiraz and the Iranian regime, nor did the panel assume the Applicant's involvement in the regime's human rights crimes. The RAD recognized the importance of assessing not only Shiraz's contribution to the human rights crimes of its clients and the role of its surveillance systems in facilitating those crimes but also the duties and position of the Applicant within Shiraz as a senior executive at the centre of Shiraz's operations.

3. Was the Applicant's contribution voluntary?

[51] The Applicant does not contest the RAD's conclusion that his contribution to the provision of cameras and surveillance systems to the Iranian regime was voluntary. He does not

argue that he was forced to work or to continue to work for Shiraz. The circumstances of the Applicant's initial employment by Shiraz, his ascendancy to Chair of the board, and his continued work for Shiraz after he formed his own company are sufficient to establish the voluntary nature of his association with Shiraz.

4. Can the Applicant's contribution to human rights crimes in Iran be considered significant?

[52] The Applicant submits that the RAD did not prove that he made a significant contribution to the human rights crimes committed by the major regime clients of Shiraz and that the panel merely assumed that the company's cameras and surveillance systems played a material part in the commission of those crimes. He states that prisons and detention centres supplied by Shiraz discharged legitimate responsibilities within Iran's penal system and may not have used the company's equipment for any criminal purpose.

[53] The RAD did not find that the Applicant contributed to a specific crime, nor was it required to do so. The required connection between the Applicant and the Iranian regime's criminal conduct does not have to be direct, it can be "directed to 'wider concepts of common design, such as the accomplishment of an organisation's purpose by whatever means are necessary including the commission of war crimes'" [citation omitted] (*Ezokola* at para 87).

[54] The RAD acknowledged that Shiraz's clients conducted a variety of activities, not all of which were criminal. However, the company's security systems facilitated the daily operations of detention centres; operations that included widespread human rights crimes. The cameras and surveillance systems permitted regime personnel to monitor the activities carried out within the

centres, maintain physical custody of detainees, and control what the cameras recorded and by whom those recordings were seen. The RAD repeated the RPD's finding that Shiraz "provided a service that was integral and necessary to the successful operation and functioning" of Iranian prisons.

[55] As stated above, the Applicant himself had a leadership role in Shiraz for many years and had direct involvement with the installation and maintenance of surveillance cameras in prisons where torture was taking place. His presence in the impugned institutions and close collaboration with clients to determine their needs was a central element in the RAD's analysis and endorsement of the RPD's decision.

[56] I agree with the Respondent that the present case gives rise to considerations similar to those before the Court in *Sarwary*, including the question of guilt by association. The applicant in *Sarwary* was in charge of three departments in an Afghan prison for 20 years. He was largely engaged in administrative work (e.g., transferring prisoners, training new policemen). The Court noted the RAD's finding that the Afghan prison system carried out legitimate and criminal acts and its finding that criminal acts were prevalent (*Sarwary* at para 43). The Court found that the RAD had not made a finding of complicity by association because its determination was not based solely on the prevalence of torture and abuse. The panel considered the length of time the applicant had worked in the organization, his rank and role in the organization, and the fact that he must have known early in his career that the prison where he worked engaged in torture. The Court confirmed the RAD's conclusion that there were serious reasons to conclude that the applicant's contribution to a system used to torture detainees was significant.

[57] In this case, the RAD undertook the same detailed analysis of the Applicant's rank, role and tenure at Shiraz, his numerous onsite visits and work with prison personnel, and the prevalence of torture and abuse in Iranian prisons. The facts of this case differ materially from those in *Eriator v Canada (Citizenship and Immigration)*, 2022 FC 1154, in which Justice Roy agreed with the applicant that the RAD had made a finding of guilt by association. Faced with an appellant who was employed in a clerical position within the Nigerian police force, the Immigration Appeal Division relied on duration of service, participation in "investigations", and unfounded generalizations, without analyzing the specific aspects of the appellant's work and how it rose to the level of contribution rather than suspicion.

[58] I find that the RAD in this case did not make a finding of guilt by association. The Applicant's work as a senior executive at Shiraz facilitated the commission of human rights crimes and abuses in the detention centres that used Shiraz's equipment. His role was not one of passive acquiescence (*Elve v Canada (Citizenship and Immigration)*, 2020 FC 454 at para 67). The RAD's analysis of the Applicant's significant contribution to crimes against humanity was justified and intelligible in light of his position, duties and actions, and the jurisprudence of this Court.

5. When did the Applicant know of the human rights crimes and abuses in the detention centres to which Shiraz supplied its surveillance systems?

[59] The Applicant repeats in this application his insistence that he had no knowledge before 2017 of the human rights crimes committed in the detention centres that used Shiraz's systems. The Applicant states that, once he saw that Shiraz's cameras were being used by the Iranian state to violate human rights, he took action. He not only shared confidential security information with

a source outside of Iran, he actively interfered with the security systems of the Iranian regime to assist anti-government demonstrators in 2017-2018.

[60] The RAD set out the RPD's conclusion that the Applicant's testimony regarding when he knew about the conditions and mistreatment in prisons was (a) contradictory and (b) not consistent with what would be expected in light of his profile and the scope of his activities with Shiraz. The RAD found no error in the RPD's assessment, describing it as detailed and correct.

[61] The RAD considered the Applicant's appeal submissions regarding the date on which he became aware that Shiraz's cameras and systems were being used to facilitate the commission of human rights crimes but found his submissions and evidence were not credible. The Applicant disagrees and argues that the RAD's conclusion was based on unreasonable and erroneous adverse credibility findings.

[62] The RAD noted that the Applicant knew why his brother and friend each fled Iran and sought refugee protection many years before 2017. His brother was arrested and beaten after protesting the actions of the regime. The Applicant's friend was an expert intelligence member of the Fars Revolutionary Guard who left Iran for Sweden. The Applicant himself was well-connected with important individuals in the Iranian regime. The Applicant testified that he worked on-site in clients' premises once or twice a month for over 10 years. His seniority and the duration of his work with Shiraz would have entailed an "open and transparent" sharing of information with his clients to ensure the security systems he was supplying were fit for purpose. The panel pointed to the Applicant's testimony that "[w]henever we were testing those cameras,

at the same time we saw the recordings that they had". These factors led the RAD to reject the Applicant's claim that he was unaware, before 2017, of the crimes and criminal purposes of the Iranian regime. The panel also stated that the Applicant was aware prior to 2017 that his conduct would assist in the furtherance of those crimes and criminal purposes.

[63] The Applicant has not established any reviewable error in the RAD's analysis of the length of time during which he was aware of the human rights crimes perpetrated by Shiraz's clients. His disagreement with the RAD's findings does not establish exceptional circumstances that justify the Court's intervention (*Vavilov* at para 125). The Court's role is not to reassess the evidence before the RAD. The assessment of evidence is reserved to the RAD and the Court reviews the RAD's findings for reasonableness (*Sarwary* at para 45).

IV. Conclusion

[64] In *Ezokola*, the SCC emphasized the importance of the facts of each case to a decision maker's assessment of complicity under Article 1F(a) of the Convention. Here, the RAD's analysis of the *Ezokola* test and the relevant factors suggested by the SCC maintains the critical distinction between mere association with an organization that engages in human rights crimes and a significant and knowing contribution to that organization and its crimes or criminal purpose. While the RAD cannot make a finding of complicity based on suspicion, it is entitled to make reasonable inferences from the evidence The Applicant's long-standing executive work for Shiraz, his onsite collaboration with security personnel in Iranian prisons, and the central function of the cameras and surveillance systems supplied by Shiraz established the factual basis

on which the RAD made its Article 1F(a) finding of complicity. I find no reviewable error in the RAD's analysis and dismiss the application for judicial review.

[65] No question for certification was proposed by the parties and none arises in this case.

JUDGMENT IN IMM-2864-22

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Elizabeth Walker"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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