

Federal Court



Cour fédérale

**Date: 20240621**

**Docket: IMM-6330-23**

**Citation: 2024 FC 963**

**Vancouver, British Columbia, June 21, 2024**

**PRESENT: Mr. Justice Sébastien Grammond**

**BETWEEN:**

**SARA POURMEHDI KASMAEI  
MOSTAFA ALIREZANEZHAD  
GOHARDANI  
ARIA ALI REZA NEJADGOHARDANI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Ms. Pourmehdi Kasmaei, a citizen of Iran, applied for a study permit to pursue a two-year business graduate diploma at Kwantlen Polytechnic University. Her application was refused, because the visa officer found that she lacked sufficient financial resources, that her incentive to return to Iran would be lessened as her husband and son would be travelling with her and that she had not demonstrated the benefits of the proposed program for her career.

[2] She is now seeking judicial review of the denial of the permit.

[3] I am dismissing Ms. Pourmehdi Kasmaei's application. The issue of financial resources is determinative, because a study permit cannot be granted to an applicant who fails to meet this test. See, for example, *Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at paragraph 36; *Salamat v Canada (Citizenship and Immigration)*, 2024 FC 545 at paragraph 3; *Mohebban v Canada (Citizenship and Immigration)*, 2024 FC 819 at paragraph 26.

[4] Ms. Pourmehdi Kasmaei argues that she was only required to provide evidence of funds sufficient to cover the first of her two years of study. However, section 220 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, provides:

**220** An officer shall not issue a study permit to a foreign national, other than one described in paragraph 215(1)(d) or (e), unless they have sufficient and available financial resources, without working in Canada, to

(a) pay the tuition fees for the course or program of studies that they intend to pursue;

(b) maintain themselves and any family members who are accompanying them during their proposed period of study; and

(c) pay the costs of transporting themselves and the family members

**220** À l'exception des personnes visées aux sous-alinéas 215(1)d) ou e), l'agent ne délivre pas de permis d'études à l'étranger à moins que celui-ci ne dispose, sans qu'il lui soit nécessaire d'exercer un emploi au Canada, de ressources financières suffisantes pour :

a) acquitter les frais de scolarité des cours qu'il a l'intention de suivre;

b) subvenir à ses propres besoins et à ceux des membres de sa famille qui l'accompagnent durant ses études;

c) acquitter les frais de transport pour lui-même et les membres de sa famille

referred to in paragraph (b)  
to and from Canada.

visés à l'alinéa b) pour  
venir au Canada et en  
repartir.

[5] Section 220 requires proof of financial resources for the entire duration of the program of study. This is especially apparent from the English version of paragraph (b), which speaks of the “proposed period of study”.

[6] Ms. Pourmehdi Kasmaei relies on IRCC program instructions to argue that she is only required to show availability of funds for her first year of study. These instructions provide:

Students are required to demonstrate financial sufficiency for only the first year of studies, regardless of the duration of the course or program of studies in which they are enrolled. . . . Officers should be satisfied however that the probability of funding for future years does exist (for example, parents are employed, scholarship is for more than 1 year).

[7] This carefully worded statement is not intended to change the requirements of section 220 of the Act, which pertain to the full length of an applicant’s course of study. What the program instructions contemplate, however, is that an applicant may fulfil the requirement by showing liquid assets (for example, money in a bank account) covering the costs of the first year, combined with proof that funds will be available in subsequent years (for example, the applicant benefits from a scholarship or is sponsored by relatives who are employed). See, for example, *Ibekwe v Canada (Citizenship and Immigration)*, 2022 FC 728 at paragraph 29; *Roudehchianahmadi v Canada (Citizenship and Immigration)*, 2023 FC 626 at paragraph 17; *Sani v Canada (Citizenship and Immigration)*, 2024 FC 396 at paragraphs 25–27.

[8] In her visa application, Ms. Pourmehdi Kasmaei stated that she had \$44,485 in available funds and that her expenses for the first year (including those of her family) were \$42,000. Hence, according to her own calculations, her liquid assets barely cover the cost of the first year of study. Furthermore, the tuition fees she indicated are probably underestimated. Moreover, there is simply no evidence of the availability of funds for the second year. Ms. Pourmehdi Kasmaei is not sponsored and does not have a scholarship. She will leave her employment in Iran and income from employment in Canada cannot count towards fulfilling the requirements of section 220.

[9] At the hearing, Ms. Pourmehdi Kasmaei highlighted a certificate from her bank attesting to the fact that she holds the equivalent of \$72,785 in her account. However, the exchange rate used by the bank appears doubtful, and I note that Ms. Pourmehdi Kasmaei indicated a smaller equivalent in Canadian dollars in her financial summary. As I explained at the hearing, even if the higher number were used, it would not cover Ms. Pourmehdi Kasmaei's expenses for the two years of the program.

[10] While Ms. Pourmehdi Kasmaei provided evidence that she owns real estate in Iran, it is unclear that she would be willing or able to sell it on short notice and realize the value she declared.

[11] On this evidence, it was reasonable for the officer to find that Ms. Pourmehdi Kasmaei's "assets and financial situation are insufficient to support the stated purpose of travel". As this issue is determinative, it is not necessary to address her submissions regarding the officer's

treatment of her study plan and ties to Iran. As a result, the application for judicial review will be dismissed.

[12] I wish to add the following observation. In August 2023, I found striking similarities between the study plans of the applicants in three separate applications for leave assigned to me, bearing file numbers IMM-4500-23, IMM-5702-23 and IMM-5677-23. I issued a direction to the parties explaining what I observed. The applicant's counsel and the immigration consultant who prepared the study permit application in this case are the same as in these three files.

[13] The study plan in this case is very similar in structure to the study plans in these three files. In particular, the benefits promised to the applicant upon promotion are almost identical: a 60-70% salary increase, a 2% commission on all projects and a place on the employer's board of directors.

[14] Moreover, the record contains a letter from the employer certifying that Ms. Pourmehdi Kasmaei is given leave to pursue studies in Canada and needs to return to the service of the employer afterwards to complete a 10-year contract on pain of financial penalty (Applicant's Record at page 98). Identically worded letters from different employers, with only minor variations, were in the record in files IMM-4500-23 (Applicant's Record at page 100), IMM-5702-23 (Applicant's record at page 120) and IMM-5677-23 (Applicant's Record at page 134).

[15] It strains credulity that four unrelated employers would make offers of promotion to applicants for study permits, with respect to different positions, but offering an almost identical

combination of benefits. It also strains credulity that these four unrelated employers would have also signed 10-year contracts with their employees and use identically worded letters to explain the consequences resulting from the employee's failure to return. This raises concerns as to the authenticity of the information provided by the applicants in these, and possibly other, files.

[16] At the hearing, I asked counsel whether he had any comments regarding this issue. He agreed that this was a matter of concern, but added that these were the documents submitted to IRCC by his clients and that he was only retained for the purposes of the application for judicial review.

[17] As a judge, it is not my role to investigate. I can only comment upon what has been placed before me. It will be for others to pursue this matter further if they consider it useful.

**JUDGMENT in IMM-6330-23**

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

1. The application for judicial review is dismissed.
2. No question is certified.

"Sébastien Grammond"

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Judge

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

**DOCKET:** IMM-6330-23

**STYLE OF CAUSE:** SARA POURMEHDI KASMAEI, MOSTAFA  
ALIREZANEZHAD GOHARDANI, ARIA ALI REZA  
NEJADGOHARDANI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

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

**DATE OF HEARING:** JUNE 20, 2024

**JUDGMENT AND REASONS:** GRAMMOND J.

**DATED:** JUNE 20, 2024

**APPEARANCES:**

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