

Federal Court



Cour fédérale

**Date: 20240924**

**Docket: IMM-13512-23**

**Citation: 2024 FC 1496**

**Ottawa, Ontario, September 24, 2024**

**PRESENT: Madam Justice Azmudeh**

**BETWEEN:**

**HANIEH MOSTOFI**

**Applicant**

**and**

**MINISTER OF IMMIGRATION  
AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant, Hanieh Mostofi [the “Applicant”], is seeking a judicial review under section 72(1) of the *Immigration and Refugee Protection Act* [IRPA] concerning the rejection of her Study Permit application for Canada. The judicial review is dismissed for the following reasons.

[2] The Applicant is an Iranian citizen who applied for a study permit to attend a two year Business Diploma program at the George Brown College in Ontario, Canada.

[3] The parties do not dispute that as part of her study permit application, the Applicant provided the following documents related to her finances:

- A certificate of deposit from Parsian Bank, for an account under the Applicant's name, showing a deposit value totalling \$22,944.18 (CAD) as of July 20, 2023. The account is noted to have been opened in February 2016. The certificate does not show any transaction history or bank statements, or demonstrate where or when the funds (or any portion thereof) were deposited into the account;
- A certificate of deposit from Maskan Bank, for an account under the Applicant's father's name, showing a deposit value totalling \$29,839.10 (CAD) as of July 19, 2023. The account is noted to have been opened in December 2011. The certificate does not show any transaction history or bank statements, or demonstrate where or when the funds (or any portion thereof) were deposited into the account;
- Various documents related to the ownership of property or other assets – located exclusively in Iran – by the Applicant's spouse and father; and,
- Evidence that the tuition for one academic year was \$15,800.00, and the Applicant had prepaid a \$9,179.00 tuition deposit.

[4] The parties also do not dispute that the Applicant's application was being processed at the Canadian Visa Office in Ankara, Turkey, where the Office's specific Study Permit Guide has the following instructions in its checklist:

**Proof of funds to cover all your expenses:**

- Copies of bank statements or bank book covering the past 6 months. [emphasis added]
- Proof of assets such as real estate property, investments or other forms of income.
- If a person or organization outside Canada is funding your studies: detailed explanation letter and proof of financial capacity of that person or organization (employment letter, bank statements, proof of real estate property, etc.).
- If a host in Canada will be funding your expenses: detailed explanation letter from your host indicating how you are related; their proof of income such as: employment letter, bank statements, the most recent copy of a Notice of Assessment from Revenue Canada or T4; and proof of their status in Canada (citizenship, permanent resident, valid authorization or permit holder, etc.)

[5] On October 5, 2023, an officer ["Officer"] refused the Applicant's study permit application. The Officer refused the Application because they were not satisfied that the Applicant would leave Canada at the end of her authorized period of stay. The Officer's Global Case Management System ("GCMS") notes outline their concern regarding the Applicant's financial evidence as follows:

I have reviewed the application. I have considered the following factors in my decision. Insufficient detail bank statement, In the absence of satisfactory documentation showing the source of these funds, I am not satisfied the PA has sufficient funds for the intended purpose. Chosen program at such expense appears illogical in light of the PA's reported scholarly history. Insufficient explanation has been given on how the sought educational program would be of benefit. 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.

## II. Issues and Standard of Review

[6] This Application for judicial review raises two main issues:

- A. Was the Officer's decision unreasonable?
- B. Was there a breach of procedural fairness?

[7] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, at paras 12-13 and 15 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21, at paras 8 and 63 [*Mason*].

[8] I started by reading the reasons of the decision-maker in conjunction with the record that was before them holistically and contextually. As guided by *Vavilov*, at paras 83, 84 and 87, as the judge in reviewing court, I have focused on the reasoning process used by the decision-maker. I have not considered whether the decision-maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov*, at para 83; *Canada (Justice) v D.V.*, 2022 FCA 181, at paras 15 and 23.

[9] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision-maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33 and 61; *Mason*, at paras 8, 59-61

and 66. 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.

[10] 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). 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 CanLII 699 (SCC), [1999] 2 SCR 817 at paras 21-28 (*Canadian Pacific Railway Company* at para 54).

### III. Legislative Overview

[11] The following sections of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] are also relevant:

#### **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

- (a) applied for it in accordance with this Part;
- (b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

#### **Permis d'études**

216 (1) Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

- a) l'étranger a demandé un permis d'études conformément à la présente partie;
- b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

(c) meets the requirements of this Part;

(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(e) has been accepted to undertake a program of study at a designated learning institution.

[...]

### **Acceptance letter**

219 (1) A study permit shall not be issued to a foreign national unless they have written documentation from the designated learning institution where they intend to study that states that they have been accepted to study there.

[...]

### **Financial resources**

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

c) il remplit les exigences prévues à la présente partie;

d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

[...]

### **Acceptation par l'établissement**

219 (1) Le permis d'études ne peut être délivré à l'étranger que si celui-ci produit une attestation écrite de son acceptation émanant de l'établissement d'enseignement désigné où il a l'intention d'étudier.

[...]

### **Ressources financières**

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

**Conditions — study permit holder**

220.1 (1) The holder of a study permit in Canada is subject to the following conditions:

(a) they shall enroll at a designated learning institution and remain enrolled at a designated learning institution until they complete their studies; and

(b) they shall actively pursue their course or program of study.

**Conditions — titulaire du permis d'études**

220.1 (1) Le titulaire d'un permis d'études au Canada est assujéti aux conditions suivantes :

a) il est inscrit dans un établissement d'enseignement désigné et demeure inscrit dans un tel établissement jusqu'à ce qu'il termine ses études;

b) il suit activement un cours ou son programme d'études.

#### IV. Analysis

##### A. *Was the Officer's decision reasonable?*

[12] On a study permit application, the Applicant must establish that they meet the requirements of the IRPA and the IRPR. Visa officers have a wide discretion in their assessment of the application and the Court ought to provide considerable deference to an Officer's decision given the level of expertise they bring to these matters. The onus is on the Applicant who seeks temporary entry to Canada to establish and satisfy a visa officer that they will leave Canada at the end of the authorized period of stay requested.

[13] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions and the narrow consequences of a refusal are such that extensive reasons are not required: *Vavilov* at paras 88 and 91; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 at paras 9 and 16 [*Yuzer*]; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19–20. Nonetheless, the reasons given by the Officer must, when read in the

context of the record, adequately explain and justify why the application was refused: *Yuzer* at paras 9 and 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 at para 35 [*Hashemi*]; *Vavilov* at paras 86 and 93–98.

(1) Funds

[14] I find that the Officer found that funds were the determinative issue in this case. I find this to be reasonable. In fact, according to section 220(b) of the IRPR, an immigration officer cannot issue a study permit unless the applicant has sufficient and available financial resources to maintain themselves, and any accompanying family members, during the proposed period of study. An applicant's financial resources are also relevant to the question of whether an applicant will depart Canada at the end of their authorized stay under section 216 of the IRPR.

[15] Section 216(1) of the IRPR sets out the requirements that a foreign national must meet before an officer will issue a study permit. One of the requirements is that it is established that the foreign national will leave Canada by the end of the period authorized for their stay. When the requirements are not met, the officer will not issue a study permit. The burden is on the applicant to satisfy the officer that they meet all the legislative requirements for a study permit.

[16] In this particular case, as an Iranian citizen, the Applicant's application was being processed in the Ankara Visa Office. In the checklist for the Ankara Visa Office, applicants are reminded to include copies of bank statements or bank book covering the past 6 months. This Court has repeatedly found that an officer's expectation that the study permit applicant adheres to the checklist requirements of the Ankara visa office for bank account transactional history is



reasonable (*Moradian v Canada (Citizenship and Immigration)*, 2024 FC 1343; *Najaran v Canada (Citizenship and Immigration)*, 2024 FC 541).

[17] The Applicant was represented by counsel in the course of her study permit application and the applicable checklist, dated May 2016, is publically available on the internet. Therefore, it was reasonable for the Officer to expect to see bank statements or bank books covering a period of 6 months prior to the date of application. Since the Application was submitted in or around July 2023, it was reasonable for the Officer to expect bank statements dating back to at least February 2023. The Applicant did not provide this information with her study permit application.

[18] The Applicant argued at the Judicial Review hearing that it was inherently unfair to single out those who must file their Visa Application at the Ankara Visa Office, such as Iranians. The checklist is an interpretative and contextual guide and compatible with the Officer's statutory duty to assess the availability of funds. The purpose of the Judicial Review is to assess the reasonableness of the Officer's decision. The Officer had to be satisfied of the Applicant's finances, and the Visa Office checklist provides context for the Officer to be satisfied of the providence of the funds.

[19] The parties do not dispute that the Applicant had not provided a transaction history for either her own bank account or that of her father. At the hearing, the Applicant argued that her father had undertaken to financially support her in Canada and that she had filed evidence of her father's business, which the Officer had not taken into account. However, while she had filed

evidence of her father owning a business, she had not filed anything on the business finances, including its income generating revenue.

[20] Therefore, while the Applicant's evidence supports the assertion that at one point she had access to over \$52,000 CAD in cash, there was little before the Officer about the source or the sustainability of the funds. The Officer's concern regarding the Applicant's financial resources is reasonable based on the information available to them. Based on the information above, the Officer's reasons for refusal were justified, transparent and intelligible. It is not for this Court to weigh the evidence differently.

(2) Family Ties

[21] In this particular case, the Applicant is married and her husband remained in Iran. There was no evidence of family ties in Canada. The Applicant argues that the decision was unreasonable because the Officer refused the application on the grounds that she would not leave Canada at the completion of her studies. I would agree with the Applicant that her husband staying in Iran is a factor that would likely pull the Applicant back to Iran. However, this does not render the decision as a whole unreasonable. The GCMS notes show that the main reason for the refusal was the Applicant's financial situation, and the Officer engaged with it reasonably. Funds, and not the question of family ties, was the determinative issue in this case.

B. *Did the Officer reach their decision in a procedurally fair manner?*

[22] The Applicant argues that the decision is procedurally unfair because the Officer failed to allow the Applicant to respond to their concerns and committed an error of facts. More

specifically, she argues that the Officer should have given the Applicant an opportunity to respond to their concerns. I disagree. There were no credibility concerns with the evidence. The Officer simply found the Applicant did not meet their onus. I agree with the Respondent that the Officer had no obligation to provide the Applicant with the opportunity to respond given that their concerns related to sufficiency of evidence and not credibility (See *Lv v Canada (Citizenship and Immigration)*, 2018 FC 935 at para 40; *Grewal v Canada (Citizenship and Immigration)*, 2022 FC 1184 at para 11).

[23] The Applicant did not provide the required financial information as per the visa office instructions and provided little information about her or her father's source of income. She stated her father is a businessman and provided a document to support that he was. However, she did not provide a clear picture of her family's finances and solely relied on a snapshot at bank balances to support her financial resources. This Court has clearly stated that there is no obligation on the part of a visa officer to apprise an applicant of their concerns that arise directly from the requirements of the application (*Singh v Canada (MCI)*, 2022 FC 855 at para 22).

[24] Simply put, the Officer was not satisfied that the Applicant had the financial resources to study in Canada and provided reasons that demonstrate a clear chain of reasoning. The onus was on the Applicant and the Officer believed he had not discharged it successfully. These concerns are the basis of the refusal, not a veiled credibility assessment (*D'Almeida v Canada (MCI)*, 2019 FC 308 at para 65).

[25] I find that the Officer reached their decision fairly.

V. Conclusion

[26] The Officer's decision is reasonable and reached in a procedurally fair manner. It does exhibit the requisite degree of justification, intelligibility, and transparency. The application for judicial review is therefore dismissed.

[27] Neither party proposed a question for certification and I agree that none arises in this matter.

**JUDGMENT IN IMM-13512-23**

**THIS COURT'S JUDGMENT is that**

1. The Judicial Review is dismissed.
  
2. There are no questions to be certified.

"Negar Azmudeh"

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Judge

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

**DOCKET:** IMM-13512-23

**STYLE OF CAUSE:** HANIEH MOSTOFI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BC

**DATE OF HEARING:** SEPTEMBER 9, 2024

**REASONS FOR JUDGMENT  
AND JUDGMENT:** AZMUDEH J.

**DATED:** SEPTEMBER 24, 2024

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