

Federal Court



Cour fédérale

**Date: 20250205**

**Docket: IMM-2438-24**

**Citation: 2025 FC 234**

**Toronto, Ontario, February 5, 2025**

**PRESENT: Madam Justice Whyte Nowak**

**BETWEEN:**

**MAJEDA SARASSRA**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The applicant is a 46-year-old citizen of the Palestinian Authority who sought refugee protection in Canada in 2017. It is undisputed that the Applicant worked for the International Relief Fund for the Afflicted and Needy – Canada [IRFAN Canada], and that IRFAN Canada has been designated by Canada as a terrorist organization.

[2] The Applicant was ultimately found inadmissible by the Immigration and Refugee Board's [IRB] Immigration Appeal Division [IAD] pursuant to paragraph 34(1)(f) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [Act] based on its finding that she had a sufficient institutional link to IRFAN Canada and a position of trust within the organization such that there are reasonable grounds to believe she came within the meaning of paragraphs 34(1)(c) and 34(1)(f) of the Act.

[3] The Applicant brings this application for judicial review arguing that the IAD's decision [Decision] is unreasonable in finding her to have been a member of IRFAN Canada given the short duration of her employment and the limited activities she carried out on its behalf. She claims to have been unaware that IRFAN Canada had been designated as a terrorist organization and says she believes in peace.

[4] For the reasons that follow, I find that the Decision displays the requisite intelligibility, transparency and justification on the facts and the law the IAD was required to consider. The Applicant's submissions amount to a call for this Court to reassess and reweigh the evidence, which is a call this Court will not take up, as it exceeds the Court's proper role on judicial review. Accordingly, this application is dismissed.

## II. Facts

### A. *IRFAN Canada's History*

[5] IRFAN Canada incorporated in October 1997 and describes itself as a not-for-profit organization that “serve[s] the needs of orphans and other persons living in extreme poverty throughout the world by providing funding and goods to individuals and organizations in order to foster nutritional, health care, psychological and other basic human needs support.”

[6] Between October 2003 and December 2004, the Canada Revenue Agency [CRA] conducted an audit of IRFAN Canada. That audit revealed IRFAN Canada's partnerships with foreign organizations with ties to Hamas. Hamas has been listed by Canada as a terrorist entity since 2002. As the IAD noted, “Hamas uses political and violent means in pursuit of its objective to establish an Islamic state in all of Palestine. Hamas has been responsible for several hundred terrorist attacks against civilian and military targets including shootings, bombings, kidnapping, and suicide operations.” Importantly, the IAD also noted that as an organization, Hamas is reliant upon funding and support from global charities mostly from outside Palestine.

[7] To maintain its continued charitable status, the CRA required IRFAN Canada, *inter alia*, to ensure that its resources were not tied to Hamas or any other terrorist organization. However, between 2005 and 2009, IRFAN Canada was found to have transferred some \$14.6 million in funds to organizations linked to Hamas, and a follow-up CRA audit revealed that IRFAN Canada had links to Hamas through organizations that are run by members of Hamas, support and provide funding to Hamas, or have bank accounts connected to Hamas.

[8] IRFAN Canada's charitable status was revoked in April 2011, and on April 29, 2014, it was listed as a terrorist entity under the *Criminal Code*, RSC 1985, c C-46.

B. *The Applicant's Employment with IRFAN Canada*

[9] The Applicant does not dispute that she was an employee of IRFAN Canada.

[10] She learned of the job posting from a friend and attended an interview at the IRFAN Canada Ramallah office where she was interviewed and hired by Tahrir Atta [Atta]. Atta, who the Applicant referred to as a "secretary," became the Applicant's supervisor and was the only IRFAN Canada employee from whom she took direction. The Applicant also claims to have never attended any IRFAN Canada offices or meetings after her initial interview.

[11] The length and timing of the Applicant's employment with IRFAN Canada was a matter of dispute between the Applicant and the Minister of Public Safety and Emergency Preparedness [Minister]. While the Applicant said she was unable to recall the specific dates when she worked, she was adamant that she only worked one year sometime between 2012 and the end of 2013, and that her work was minimal and insignificant. She worked for four hours every 45 days. Evidence from the Royal Canadian Mounted Police [RCMP] show four payments from IRFAN Canada from January to July 2012 under the heading "Distribution of Orphan's Cheques – Project Expenses," while the CRA's audit showed that the Applicant was employed with IRFAN Canada since March 1, 2010, with her main duties having been described as the distribution of cheques to orphans in Bethlehem.

[12] The Applicant describes her work with IRFAN Canada as distributing support donation cheques to pre-qualified children whose fathers had died of natural causes. She explained that the day before she was to make the distributions, she would receive a call from Atta advising her that the cheques would be arriving. The following day, the Applicant would attend a police station in Bethlehem that also served as a post office where she met a police officer who was in possession of the cheques and two identical lists from IRFAN Canada containing the names of children who were to receive them. The Applicant would read the names from the list she was given, check the recipient's identification, hand out the cheques to the child's mother or guardian, obtain a signature for the receipt of the cheque, and then return the list to the police officer who mailed the list and unclaimed cheques back to IRFAN Canada.

[13] The Applicant left her job with IRFAN Canada voluntarily including by reason that it did not generate sufficient income for her. She claims to have had no knowledge of IRFAN Canada's terrorist designation, and she notes that in carrying out her job, she was required to pass through three different Israeli checkpoints where she was asked about her work and employer.

C. *The Applicant's Immigration History*

[14] The Applicant claimed refugee protection on January 6, 2017. The Applicant's claim was suspended due to allegations by the Minister under subsection 44(1) of the *Act* [the Section 44 Report]. The Section 44 Report states that there are reasonable grounds to believe that the Applicant is inadmissible pursuant to paragraph 34(1)(f) of the *Act* based on allegations that she is a member of a designated terrorist organization for which there are reasonable grounds to

believe engages, engaged, or will engage in terrorism within the meaning of paragraphs 34(1)(c) and 34(1)(f) of the *Act*.

[15] A hearing was held on March 2, 2022 by the IRB. The Applicant appeared before the IRB. The IRB found the Applicant's testimony to be credible and concluded that she was not inadmissible pursuant to paragraph 34(1)(f) of the *Act* [the IRB Decision]. The Minister appealed the IRB Decision.

D. *The IAD Decision*

[16] The IAD conducted a *de novo* hearing on November 8, 2023. The IAD considered that there are reasonable grounds to believe that: (i) IRFAN Canada engaged in terrorism based on its review of "comprehensive evidence" presented from "authoritative and credible sources" of IRFAN's activities; and (ii) the Applicant was a member of IRFAN Canada.

[17] The IAD therefore allowed the appeal and set aside the IRB Decision, finding the Applicant inadmissible on security grounds as a member of IRFAN Canada, as there are reasonable grounds to believe that IRFAN Canada engages, engaged, or will engage in terrorism within the meaning of paragraphs 34(1)(c) and 34(1)(f) of the *Act*.

[18] The Applicant now seeks judicial review of the IAD's Decision.

### III. Legislative Framework

[19] Paragraphs 34(1)(c) and (f) of the *Act*, which are at issue in this case, read as follows:

<b>Security</b>	<b>Sécurité</b>
<b>34 (1)</b> A permanent resident or a foreign national is inadmissible on security grounds for	<b>34 (1)</b> Emportent interdiction de territoire pour raison de sécurité les faits suivants :
...	...
(c) engaging in terrorism;	c) se livrer au terrorisme;
...	...
(f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b), (b.1) or (c).	f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b), b.1) ou c).

[20] Section 33 of the *Act* governs the interpretation of section 34:

<b>Inadmissibility</b>	<b>Interdictions de territoire</b>
<b>Rules of interpretation</b>	<b>Interprétation</b>
<b>33</b> The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.	<b>33</b> Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.

[21] The standard of proof of “reasonable grounds to believe” referred to in paragraph 34(1)(f) of the *Act* requires an objective basis for the belief based on compelling and credible information as opposed to mere suspicion (*Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at para 114 and *Mahjoub v Canada (Citizenship and Immigration)*, 2017 FCA 157 at para 89).

#### IV. Issues and Standard of Review

[22] The only issue raised by the Applicant is whether it was reasonable for the IAD to find that the Applicant’s employment with IRFAN Canada constitutes membership, rendering her inadmissible pursuant to paragraphs 34(1)(c) and 34(1)(f) of the *Act*.

[23] I am in agreement with the parties that the standard of review for a finding of membership is that of reasonableness as articulated in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. A reasonable decision bears the hallmarks of justification, transparency and intelligibility, with the burden resting on the challenging party to show that the decision is unreasonable (*Vavilov* at paras 99-100). A reviewing court must ensure that the decision demonstrates an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrained the decision maker (*Vavilov* at para 85).

[24] A reviewing court must also consider whether the central issues, concerns and evidence raised by the parties were meaningfully accounted for by the administrative decision maker, but the court is not entitled to reweigh or reassess the evidence (*Vavilov* at paras 125, 127-128).



V. Analysis

[25] The Applicant alleges that the IAD's Decision is unreasonable based on what the IAD did and did not consider in determining that she was a member of IRFAN Canada.

[26] It is important to emphasize that the Applicant does not challenge the IAD's finding that IRFAN Canada is an entity that engages, has engaged or will engage in acts of terrorism within the meaning of paragraph 34(1)(c) of the *Act*. Nor does she argue that she was employed by IRFAN Canada before the organization engaged in terrorist activities.

A. *Did the IAD unreasonably fail to consider other factors aside from her employment?*

[27] The Applicant submits that while she admitted her employment status with IRFAN Canada, this did not amount to an admission of membership, and the IAD was required to consider other factors besides her employment, including the factors of membership established in *B074 v Canada (Citizenship and Immigration)*, 2013 FC 1146 [B074] which include: (i) the nature of her involvement in the organization; (ii) the duration of her involvement; and (iii) her commitment to the organization's goals and objectives (*B074* at para 29). The Applicant says an analysis of these factors shows that the Applicant's involvement and work with IRFAN Canada was minimal and insignificant, and she cannot be said to have shown any commitment to the organization's goals and objectives.

[28] The IAD noted that the Minister took the position that an admission of employment is an admission of formal membership that requires no further inquiry. The Respondent maintains this position on judicial review.

[29] The IAD reasonably rejected the Minister's position that the Applicant's admission was determinative, stating:

I find that being a staff member of an organization as an employee and being a member of an organization are not mutually exclusive categories such that each excludes or precludes the other; but rather, are overlapping categories in that membership in an organization may encompass and include individuals who hold employment in the organization. I find that is the case here with the [Applicant].

[30] This is consistent with the Federal Court's decision in *El Werfalli v Canada (Public Safety and Emergency Preparedness)*, 2013 FC 612 [*El Werfalli*]. In *El Werfalli*, the Court held that "[m]embership in an organization implies approval of the organization, its goals and activities" (*El Werfalli* at para 68). I agree that such tacit approval may or may not be present in the case of employment and requires further inquiry.

[31] The IAD conducted further inquiry which was consistent with the Federal Court's holding in *Sinnaiah v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1576 [*Sinnaiah*], that to establish "membership" in an organization, there must at least be evidence of an "institutional link" with, or "knowing participation" in, the group's activities (*Sinnaiah* at para 6).

[32] The IAD found evidence of an institutional link between the Applicant and IRFAN Canada as well as the Applicant's knowing participation in IRFAN's activities at an operational level in which she held a position of trust. The IAD relied on objective evidence confirming the length and nature of the Applicant's activities from a number of sources, including the Applicant's immigration forms and her testimony from her interview with the Canada Border Services Agency, IRFAN Canada, the RCMP and the CRA. This evidence showed indicia of formal membership as a staff member (receiving a salary, taking orders and completing assigned tasks), but also that she held a position of trust in the handling of IRFAN's funds in fulfilling its stated mission at an operational level.

[33] The IAD considered that the Applicant's admission of employment together with these findings were sufficient to support reasonable grounds upon which to find formal membership.

[34] I find that the IAD's analysis is rational and justified in light of decisions of this Court, which have held that the term "member" in paragraph 34(1)(f) of the *Act* must be given a broad and unrestricted interpretation (*Poshteh v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 85 at paras 26-32 [*Poshteh*]) such that membership can be established through informal or formal participation or by association (*TK v Canada (Public Safety and Emergency Preparedness)*, 2013 FC 327 at para 98) and does not require a complicity analysis (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 25).

B. *Was the IAD's finding of membership based on an institutional link unreasonable?*

[35] The Applicant suggests that the IAD's finding of an institutional link to IRFAN Canada was based on three errors, each of which undermines the reasonableness of the IAD's Decision.

(1) Did the IAD fail to account for the minor nature of the Applicant's work?

[36] The Applicant argues that she had "an extremely low-level of involvement" with IRFAN Canada that amounted to a part-time job totalling 32 hours. She points to the IAD's reliance on the authority of *El Werfalli*, which she says is distinguishable since she did not have the level of responsibility that the claimant in *El Werfalli* had through his employment as a medical doctor and clinic administrator for a charitable foundation. The Applicant contends that it was unreasonable based on this authority to find that her "extremely low-level" position within IRFAN Canada amounted to membership in the organization.

[37] It was open to the IAD to reject the Applicant's characterization of her position within IRFAN as "minor." Moreover, the Applicant's comparison of her responsibilities to that of the claimant in *El Werfalli* is not persuasive. A determination under paragraph 34(1)(f) of the *Act* requires a fact-specific, flexible and contextual analysis (*Lapaix v Canada (Citizenship and Immigration)*, 2025 FC 111 at paras 53-54). By way of illustration, it is one thing to claim to have been in charge of lighting at a theatre, but it is quite another to have been in charge of lighting at a theatre where terrorist interrogations took place. Context matters. It was not unreasonable, therefore, for the IAD to consider not simply that the Applicant distributed cheques to children who had been orphaned, but that she did so as a trusted employee who was

given the responsibility of the handling and distribution of money within an organization whose funding was tied to Hamas.

(2) Did the IAD's factual error impact its finding of an institutional link?

[38] The Applicant argues that the IAD made a factual error in referring to the Applicant's supervisor, Atta, as the "Deputy Director" of IRFAN Canada when the evidence is that Atta was a secretary or supervisor who worked *for* the Deputy Director of IRFAN Canada. The Applicant submits that this error was significant, as it was one of the main reasons for the IAD's finding of an institutional link based on the nature of the Applicant's job. The Applicant suggests that if this error is accounted for, the remainder of the evidence points to an "extremely low-level involvement" in IRFAN Canada.

[39] While I acknowledge that the IAD erred in its identification of Atta's job title, I do not find that this error is so significant as to warrant this Court's intervention (*Vavilov* at para 100). As the Applicant acknowledges, the IAD did not base its finding of an institutional link based solely on the Applicant's connection to Atta. Moreover, I agree with the Respondent that the significance placed by the IAD on Atta was not in her title, but in her supervisory position. The fact remains that the Applicant took direction from a superior at IRFAN Canada, which, amongst other factors, supports the IAD's finding of an institutional link to the organization.

(3) Was the IAD's finding that the Applicant held a position of trust reasonable?

[40] The Applicant submits that it was unreasonable for the IAD to have found that the Applicant was in a position of trust. She says this finding is contradicted by evidence showing that she: was always accompanied by a police officer; did not have any decision-making authority over the recipients of the cheques; and did not have responsibility for either obtaining or returning the lists of recipients.

[41] As the Federal Court of Appeal observed in *Poshteh*, “[i]n any given case, it will always be possible to say that although a number of factors support a membership finding, a number point away from membership” (*Poshteh* at para 36). It was open to the IAD to place greater emphasis on the Applicant's position of trust in her handling of funds given that it was the use of IRFAN Canada's funds that caused it to be designated as a terrorist organization. The IAD's assessment and weighing of the evidence is within their expertise and is entitled to deference (*Poshteh* at para 36) which this Court will not revisit.

## VI. Conclusion

[42] I find that the Decision displays the requisite intelligibility, transparency and justification that gives this Court confidence in the IAD's finding that there are reasonable grounds to believe that the Applicant was a member of a terrorist organization within the meaning of paragraphs 34(1)(c) and 34(1)(f) of the *Act*. This application is dismissed.

**JUDGMENT in IMM-2438-24**

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

1. The application for judicial review is dismissed; and
2. There is no question of general importance for certification.

"Allyson Whyte Nowak"

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Judge

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

**DOCKET:** IMM-2438-24

**STYLE OF CAUSE:** MAJEDA SARASSRA v THE MINISTER OF PUBLIC  
SAFETY AND EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** TORONTO, ONTARIO

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**DATED:** FEBRUARY 5, 2025

**APPEARANCES:**

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