

Federal Court



Cour fédérale

**Date: 20250211**

**Docket: IMM-16394-23**

**Citation: 2025 FC 269**

**Toronto, Ontario, February 11, 2025**

**PRESENT: Madam Justice Go**

**BETWEEN:**

**MALIHEH KHASHAKI**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Maliheh Khashaki, a citizen of Iran and a self-employed painter and craftsperson, applied for a permanent residence visa under the self-employed persons class. The Applicant intended to open her own art gallery in Ontario where she would create and sell her art and teach art classes.

[2] A Migration Officer [Officer] refused to issue the Applicant's permanent residence visa. The Officer was not satisfied that the Applicant met the definition of a self-employed person under subsection 88(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 as a person who has the intention and ability to be self-employed in Canada and make a significant contribution to specified economic activities in Canada.

[3] The Applicant seeks judicial review of the Decision. I find the Decision reasonable and I dismiss the application.

## II. Issues and Standard of Review

[4] The Applicant raises three issues to challenge the reasonableness of the Decision:

- a. Did the Officer err by failing to engage with the Applicant's evidence in her business plan demonstrating she had the ability and intent to be self-employed in Canada?
- b. Did the Officer err in finding the Applicant's limited English skills would negatively impact her ability to operate her art gallery?
- c. Did the Officer err in finding that the Applicant's business would not contribute culturally and economically to Canada?

[5] The parties agree that standard of review of the Decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paras 10, 25. The Court should assess whether the decision bears the requisite hallmarks of justification, transparency and intelligibility: *Vavilov* at para 99. The Applicant bears the onus of demonstrating that the decision was unreasonable: *Vavilov* at para 100.

III. Analysis

A. *Did the Officer err by not engaging with the Applicant's evidence in her business plan?*

[6] The Applicant submits that the Officer erred by failing to meaningfully engage with the evidence in her business plan.

[7] The Applicant submits that the Officer's finding that the business plan contained "very general, high-level and open-source information about the industry" lacked both intelligibility and justification. The Applicant submits that the business plan provides detailed explanation and strategies for successfully establishing her business. The Applicant included a comprehensive market analysis, an evaluation of specific competitors within the community, and an assessment of the demand conditions. The Applicant asserts that her art gallery is designed to serve a niche market that is identifiable through lists and memberships which will allow the business to convert art enthusiasts into clients. The Applicant notes that her business plan referenced industry-specific information, as well as research published by the City of Toronto, where she intends to set up her gallery, and that such information was not general. The Applicant's business plan also provided details about the practical aspect of the business activities. The Officer's finding thus leaves her wondering what other details she should have submitted.

[8] The Applicant cites *Rezaei v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 444 [*Rezaei*] at para 33 to argue that the Decision lacked justification in light of the evidence. The Applicant also cites *Belen v Canada (Citizenship and Immigration)*, 2019 FC 1175 [*Belen*]

to submit it was unreasonable for the Officer to not refer to evidence about the Applicant's education and work experience.

[9] I find the Applicant's arguments amount to a request to the Court to reweigh the evidence, and fail to raise any reviewable error with the Decision.

[10] I also find that, contrary to the Applicant's argument, the Officer did engage with the Applicant's evidence as included in the business plan.

[11] According to the Global Case Management System [GCMS] notes, which set out the reasons for the Decision, the Officer provided the following comments indicating that they had reviewed the business plan:

I have reviewed the application and documents on file. Per application and schedule 6A PA has applied to become a painter, craft-person and instructor in Canada. Schedule 6A refers to business plan, which states that PA wishes to create and sell artwork, including artwork that is already produced and under contract by clients (customers) as well as teach decorating art/craft in Toronto, ONT. The plan goes on to explain PA's experience so far and costs of establishing the new business. Plan further mentions that PA intends to offer top quality services and art products at competitive prices. PA wishes to use marketing channels such as hosting opening event, email notifications of future events for networking or additions to the collection, usage of a marketing company, and usage of social media, with website listings, in store including instruction/teaching sessions. The business plan goes on to provide a brief description of PA's goals and main characteristics of the proposed business.

[12] The Officer then went on to state that the Applicant's business plan "includes very general, high-level and open source information about the industry in Canada." Specifically, the

Officer noted: “Information provided is lacking in the concrete details pertaining to their specific activities that I would reasonably expect from an applicant with the intention and ability to be self-employed in Canada. PA’s plan includes financial assumptions related to the intended business, however, the source of the figures provided therein is unclear.”

[13] In other words, the Officer did not simply state concerns about the “general, high-level and open source information” without more, as the Applicant contends. Rather, the Officer provided their reasons for expressing those concerns. The Applicant does not address why the Officer’s expressed concerns, such as those regarding the sources of the financial figures, were unreasonable.

[14] I also find the cases cited by the Applicant to be distinguishable on the facts. In *Rezaei*, the Court took issue with several of the officer’s findings, noting, among other things, their failure to mention the applicant’s available funds for the company, the officer’s criticism of the business plan without considering the applicant’s means of execution, and the officer’s consideration of the irrelevant factor regarding the applicant’s lack of travel to Canada. Here, the Officer’s reasons contained the Officer’s review of the business plan as well as their specific concerns about the business plan.

[15] *Belen* is distinguishable in two ways. First, the Court granted the judicial review application in that case based solely on the ground of procedural fairness breach. Second, the officer in *Belen* made a summary finding without reference to any of the evidence: *Belen* at paras 12-13. This is not the case here.

[16] The Respondent submits that the Officer did not err by not making specific mention of the Applicant's work experience and education. The Respondent cites *Tekcan v Canada (Citizenship and Immigration)*, 2022 FC 635 [*Tekcan*], where the Court found that the officer did not err by failing to discuss the applicant's education, work experience, past earnings, and management experience. Instead, it was reasonable for the officer to focus on the applicant's business plan: *Tekcan* at paras 3, 11-13).

[17] I agree.

[18] As the Court noted in *Tekcan*, it was reasonable that the officer in that case focused solely on the sufficiency of the business plan because once the applicant presented a business plan, it became the core aspect of the application. However, once the business plan was found to be insufficient, the other evidence pertaining to experience, education, and connections, etc., were of no moment in the absence of a meaningful business plan: *Tekcan* at para 12. The same conclusion, in my view, can be drawn in this case.

B. *Did the Officer err in finding the Applicant's limited English skills would negatively impact her ability to operate her art gallery?*

[19] The Applicant submits that the Officer misapprehended her proposed business activity, and that the Officer erred when they suggested that the Applicant would be writing and translating books. The Applicant's business plan illustrates that she planned to open an art gallery and would pass on her skills through art lessons. The Applicant submits that this error renders the entire Decision unreasonable because it lacks intelligibility and justification.

[20] The Respondent concedes that the Officer made an error when they discussed the Applicant's ability to translate and write books. However, the Respondent submits that a fulsome reading of the Decision shows that Officer was alive to the fact that the Applicant wanted to create and sell artwork and teach art classes, citing *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 34. The Officer had concerns with the Applicant's ability to communicate in English enabling her to be self-employed and economically established in Canada because she intended to interact with clients.

[21] I agree with the Respondent. As the Officer commented in the GCMS notes, the Applicant's ability in the "local language where they intend to work" is "of particular importance in [the Applicant's] situation where [the Applicant] intends to interact with clients." It was on that basis that the Officer found the "limited evidence of [the Applicant's] official language abilities on file" that the Officer expressed concerns about whether the Applicant has "sufficient ability to communicate in English enabling them to be self-employed and economically establish [*sic*] in Canada."

[22] I further note that in *Azani v Canada (Citizenship and Immigration)*, 2022 FC 99 [*Azani*], a case cited by the Respondent, the Court found it reasonable for an officer to have concerns about an applicant's ability to work with clients in circumstances where the applicant only has a moderate knowledge of English: *Azani* at paras 30–31.

[23] Thus, while the Officer erred when they referred to the Applicant's plan to write and translate books, I find the Applicant fails to demonstrate the flaws to be "more than merely

superficial or peripheral to the merits of the decision” and “are sufficiently central or significant to render the decision unreasonable:” *Vavilov* at para 100.

C. *Did the Officer err in finding that the Applicant’s business would not contribute culturally and economically to Canada?*

[24] The Applicant submits that the Officer’s findings lacked responsiveness to the evidence in the business plan regarding the economic and cultural benefit of her business to Canada. Specifically, the Applicant points to the fact that there are over 1,389 art establishments in Canada, 72.7% of which are producing an average revenue of \$314,300 CAD. As well, the revenue of the arts and crafts industry is expected to increase at an annualized rate of 4.4% to \$675.2 million, coupled with the fact that the growth in urbanization has increased customer demand for decorative paintings. The Applicant relies on *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 [*Patel*] at para 17 for the notion that officers must be responsive to the factual matrix. As a result, the Officer failed to be responsive to the Applicant’s research on the art industry.

[25] The Applicant also relies on *Zhang v Canada (Citizenship and Immigration)*, 2019 FC 764 [*Zhang*] and *Lakhanpal v Canada (Citizenship and Immigration)*, 2021 FC 694 [*Lakhanpal*] to support her argument that the Officer failed to consider her contribution to Canada.

[26] Once again, I find the Applicant’s argument signifies a disagreement with the Decision without pointing to any reviewable error.



[27] The Officer acknowledged the figures quoted by the Applicant for creating an economic benefit. However, the Officer also noted “the source of the figures provided therein is unclear.” Merely restating the figures does not undermine the reasonableness of the Officer’s finding.

[28] I agree with the Respondent that *Patel* is distinguishable in that the officer in that case was not responsive to any part of the applicant’s application for a study permit. I also note that the Court in *Patel* found the officer made a veiled credibility finding when they found the applicant would not be a *bona fide* student without giving the applicant an opportunity to respond.

[29] *Zhang* and *Lakhanpal* also do not assist the Applicant. In *Zhang*, the determinative issue was whether the applicant’s evidence satisfied the regulatory requirement of establishing “participation at a world class level in athletics during the relevant period.” Whereas in *Lakhanpal*, the issue was whether the officer meaningfully evaluated the findings of the education credential equivalency report.

[30] In conclusion, the Officer’s reasons were reasonably responsive to the Applicant’s materials. The Decision and the reasons contained therein exhibit the requisite degree of justification, intelligibility, and transparency. The Officer’s single error with respect to the Applicant’s intended work cannot be said to constitute a sufficiently serious shortcoming to warrant the Court’s intervention.

IV. Conclusion

[31] The application for judicial review is dismissed.

[32] There is no question for certification.

**JUDGMENT in IMM-16394-23**

**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-16394-23

**STYLE OF CAUSE:** MALIHEH KHASHAKI v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** FEBRUARY 6, 2025

**JUDGMENT AND REASONS:** GO J.

**DATED:** FEBRUARY 11, 2025

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