

Federal Court



Cour fédérale

Date: 20250626

Docket: IMM-15405-23

Citation: 2025 FC 1151

Ottawa, Ontario, June 26, 2025

PRESENT: The Honourable Mr. Justice Fothergill

BETWEEN:

BRANKO SUKAN

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Branko Sukan is a citizen of Bosnia and Herzegovina [BiH] and Croatia. He seeks judicial review of the refusal by an immigration officer [Officer] to grant his request to apply for permanent residence from within Canada on humanitarian and compassionate [H&C] grounds.

[2] For the reasons that follow, the Officer's decision was reasonable. The application for judicial review is therefore dismissed.

II. Background

[3] Mr. Sukan claims to have fled from BiH to Croatia in 1998, after receiving death threats from a member of the Croatian military who mistakenly believed that Mr. Sukan had filmed him burning civilian homes. Mr. Sukan also maintains that he will face discrimination and harassment in Croatia because he was born in Bosnia.

[4] Mr. Sukan entered Canada on March 28, 2012 and applied for refugee protection. He withdrew his refugee claim on July 10, 2018.

[5] Mr. Sukan submitted his first H&C application on August 8, 2018. Removal proceedings were initiated against him on January 30, 2019. He requested a pre-removal risk assessment [PRRA] on November 20, 2019.

[6] The H&C request and PRRA both resulted in adverse decisions that were issued on October 29, 2020. Mr. Sukan commenced an application for leave and judicial review of the H&C decision on December 15, 2021. On February 7, 2022, he left Canada and returned to BiH, where his mother and brother continue to live.

[7] On January 11, 2023, Justice Susan Elliott found the H&C determination to be unreasonable, and remitted the matter to a different immigration officer for redetermination (*Sukan v Canada (Citizenship and Immigration)*, 2023 FC 45).

[8] The Officer refused Mr. Sukan's second H&C application on November 21, 2023.

III. Decision under Review

[9] The Officer accorded some weight to Mr. Sukan's establishment in Canada, noting that he had worked at A1 Siding and Windows [A1] in Niagara-on-the-Lake from March 2012 until at least May 2018. His wages had increased over time, and his employer described him as a reliable and professional employee. It was unclear whether Mr. Sukan continued to work at A1 after the rejection of his first H&C application, but the Officer gave him the benefit of the doubt and assumed he had remained at A1 until he left Canada in February 2022.

[10] The Officer accepted that Mr. Sukan had volunteered at the Croatian National Centre and St. Anthony of Padua Catholic Church, and was involved in sports clubs. Mr. Sukan was part of a mutually supportive network of friends who had provided him with emotional and practical support when he was injured and needed surgery. The Officer accorded some weight to Mr. Sukan's social integration.

[11] However, the Officer also found that Mr. Sukan was no longer reliant on his friends. He could maintain friendships through telephone calls and social media, as he had done with his family while he lived in Canada. His Canadian friends could also visit him in BiH or Croatia.

[12] The Officer found that Mr. Sukan had “strong if not stronger ties abroad”: his mother and brother live in BiH, and he spent 14 years in Croatia before moving to Canada. Given his familiarity with the cultures in these countries, and his ability to adapt to life in Canada, the Officer concluded that Mr. Sukan could relocate successfully to either BiH or Croatia.

[13] The Officer noted that Mr. Sukan had worked in construction in Croatia for at least four years before he came to Canada. There is a shortage of construction workers in Croatia, and there was little evidence to suggest he would be unable to find employment or reintegrate there.

[14] The Officer accepted that discrimination based on ethnicity is a serious issue in BiH and Croatia, but there was insufficient evidence to demonstrate that Mr. Sukan’s profile would put him at risk: (1) ethnic Croats are one of the three “constituent peoples” afforded greater rights and political representation; (2) while Croats may face discrimination in the parts of BiH controlled by Serbs, Mr. Sukan grew up in an area controlled by Croats and Bosniaks, and returned there in 2022; and (3) Mr. Sukan’s family members continued to live in this area, and there was little evidence that they had experienced discrimination in employment, housing, healthcare or education.

[15] Mr. Sukan provided little evidence concerning his personal circumstances in BiH and Croatia, either before he arrived in Canada or when he returned. The Officer also found there was insufficient evidence that the alleged agent of persecution continued to be interested in Mr. Sukan 25 years after he left the country. Mr. Sukan had returned to BiH in February 2022, and there was no new evidence of hardship. The Officer gave this factor little weight.

[16] Country condition reports for Croatia indicated that discrimination based on ethnicity was directed primarily towards Serbs and Roma. Some evidence suggested stereotyping and discrimination against Croats of Bosnian origin, but the Officer found insufficient evidence to establish on a balance of probabilities that Mr. Sukan was likely to experience hardship in either BiH or Croatia due to his identity.

[17] The Officer therefore concluded that an exemption under s 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 was not warranted.

IV. Issue

[18] The sole issue raised by this application for judicial review is whether the Officer's decision was reasonable.

V. Analysis

[19] The Officer's decision is subject to review by this Court against the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The Court will intervene only where "there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency" (*Vavilov* at para 100).

[20] The criteria of "justification, intelligibility and transparency" are met if the reasons allow the Court to understand why the decision was made, and determine whether the decision falls within the range of acceptable outcomes defensible in respect of the facts and law (*Vavilov* at paras 85-86, citing *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47).

[21] In oral submissions, Mr. Sukan's counsel departed significantly from the propositions advanced in his Memorandum of Argument. Counsel for the Respondent did not object to the presentation of new arguments, but cautioned that her ability to respond effectively was compromised by a lack of adequate notice.

[22] Mr. Sukan says that the Officer failed to consider his age when assessing his employment prospects in BiH and Croatia. He was 57 years old at the time of the Officer's decision. He says that he had assumed a supervisory role with A1, and he would be unable to achieve this elsewhere. The Respondent notes that the letter from his employer did not describe Mr. Sukan as a supervisor, but only as an installer.

[23] Mr. Sukan argues that the Officer unreasonably found that his family could help him reintegrate in BiH should he return there. His mother is 73 years old, and Mr. Sukan returned to BiH specifically to care for her. He says that his mother relies on remittances from his employment in Canada. He maintains that the Officer failed to consider the hardship his family will experience if he cannot remain here.

[24] Finally, Mr. Sukan argues that the Officer unreasonably diminished the significance of the country condition and expert reports, which confirmed the prevalence of discrimination against Bosnian Croats.

[25] Mr. Sukan provided the Officer with minimal evidence regarding the hardship that he and his family may face in BiH or Croatia. The affidavit he submitted in support of his second H&C application was just three paragraphs long and consisted of generalities. With respect to hardship, he stated only that “[...] life in Bosnia is not getting any better, and the recent pandemic and regional political pressures have made things worse”.

[26] It is not the role of a court conducting judicial review to reassess and reweigh the evidence to determine how this might affect an immigration officer’s global assessment of relevant H&C factors (*Kamarrusta v Canada (Citizenship and Immigration)*, 2024 FC 885 at para 9). Mr. Sukan has not demonstrated that the Officer ignored evidence or failed to consider his circumstances with a sufficient degree of compassion. His arguments amount to disagreements with the Officer’s assessment of the evidence and determination that his circumstances do not warrant exceptional relief.

VI. Conclusion

[27] The Officer's decision was reasonable, and the application for judicial review must therefore be dismissed. Neither party proposed that a question be certified for appeal.

JUDGMENT

THIS COURT'S JUDGMENT is that the application for judicial review is dismissed.

“Simon Fothergill”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: BRANKO SUKAN v THE MINISTER OF
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JUDGMENT AND REASONS: FOTHERGILL J.

DATED: JUNE 26, 2025

APPEARANCES:

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