Federal Court  Cour fédérale

Date: 20250730

Docket: IMM-3384-24

Citation: 2025 FC 1341

Ottawa, Ontario, July 30, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

ADOLFO ALEXANDER CARILLO VIVAS
JUAN JOSE CARRILLO LOPEZ
BLANCA CECILIA LOPEZ

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicants are citizens of Venezuela. The Principal Applicant (PA) is Adolfo Alexandra Carillo Vivas. The Associate Applicants (AAs) are his wife, Blanca Cecilia Lopez, and son, Juan Jose Carrillo Lopez. They left Venezuela and travelled to Canada to claim refugee status, saying that they feared the corrupt "nationwide mafia" consisting of the National Guard and National Police who collude with drug traffickers.

[2] The PA held senior positions in the Venezuelan Ministry of the People's Power for the Penitentiary Services (MPPSP) from October 2011 until April 2018, when he left Venezuela. The PA was found to be inadmissible to Canada because he was complicit in crimes against humanity committed by the MPPSP during the period he worked there. This finding was upheld by the Refugee Appeal Division (RAD). The RAD also upheld the finding that the AAs were not at risk in Colombia, where they both had the right to acquire citizenship.

[3] The Applicants seek judicial review of this decision, arguing that the RAD failed to give due consideration to the PA's efforts to reform the prison system, and that it relied on reports that failed to provide all of the relevant contextual information about the part of the prison system over which he had authority.

[4] For the reasons set out below, this application is dismissed. The RAD's analysis applies the law to the facts and is clearly explained. The Applicants have failed to demonstrate any reviewable error. The RAD found that the PA's attempts to minimize his involvement and to deny knowledge of the mistreatment of inmates in Venezuelan prisons was not credible, and I can find no fault with its analysis on this question. The RAD also reasonably assessed the risks faced by the AAs in Colombia. The decision is reasonable, and therefore the judicial review is dismissed.

I. Background

[5] The Applicants are citizens of Venezuela; the AAs are also eligible for citizenship in Colombia by descent. They fled Venezuela and came to Canada, where they made a claim for

refugee protection in 2018. The Applicants fear that they will be harmed or killed by a "nationwide mafia" in Venezuela, consisting of corrupt National Guard and National Police who collude with drug traffickers. The Applicants' fear stems from the PA's fight against corruption during his time working in the MPPSP.

[6] The hearing before the Refugee Protection Division (RPD) proceeded in four separate sittings. After the first hearing, the RPD gave notice to the Minister of the question of the PA's inadmissibility to Canada by virtue of his work in the MPPSP. The Minister's representative appeared the subsequent hearings. The Minister took the position that the Applicants were inadmissible under s 98 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], because the PA was excluded from refugee protection under Article 1F(a) of the *Refugee Convention* [the *Convention*].

[7] The RPD determined that there are serious reasons for considering that the PA was complicit in crimes against humanity in his role as a senior official within the MPPSP, and he was therefore excluded from refugee protection under Article 1F(a) of the *Convention* as reflected in Canadian law in s 98 of *IRPA*. The RPD also found that the AAs did not face a serious risk or danger if they were to go to Colombia, a country in which they both had access to citizenship by descent.

[8] The Applicants appealed that determination to the RAD.

II. The Decision Under Review

[9] The RAD dismissed the Applicants' appeal, finding that the RPD had correctly determined that the PA was complicit in crimes against humanity and therefore excluded from refugee protection, and it did not err in concluding that the AAs had failed to establish their risk in Colombia.

[10] The Applicants argued that the RPD member displayed a bias against them, but the RAD dismissed this claim. Although the bias allegation was mentioned by the Applicants at the hearing before me, it is not advanced as a substantive ground of judicial review and so I will not say more about it.

[11] On the PA's exclusion under Article 1F(a) and s 98 of IRPA, the RAD reviewed the definition of crimes against humanity as well as the test for complicity set out in *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*Ezokola*], described in more detail below. It then considered the RPD's analysis of the allegations against the PA under this legal framework.

[12] For the purposes of its analysis, the RAD began by underlining the importance of understanding the somewhat unusual situation in the prison system in Venezuela. It cited the following description:

> Venezuela has two types of prisons: a prison regime ruled by a hierarchical organisation of armed inmates [Old Regime] and the securitised "New Regime" system under the control of the Ministry of Penitentiary Services [MPPSP]…In the state-

> abandoned, violent and hierarchical prisons under carceral self-rule, prisoners are only partially empowered, while in the New Regime prison types predation at the hands of one's fellow inmates is replaced by the violence of the "humanising" state.

[13] The RAD noted that the evidence showed that the efforts of the Venezuelan government to wrest control of the prisons from the gangs had not succeeded, and as of 2013 the government only controlled 14 of the prisons while the gangs controlled 35. The evidence also showed "exceptionally poor prison conditions, marked by a lack of access to medical care, safe or adequate drinking water, food, and sanitation, overcrowding and violence." (RAD Decision, para 24). The situation in the prisons was described as one of the worst on the continent; the prison system was said to be one of the most violent in the world. Overcrowding is a major issue in these prisons, and over 60% of the inmates are at the pre-trial stage (meaning they have not been convicted).

[14] The RAD then reviewed some of the evidence about the situation in the prisons, noting the widespread and consistent reporting of inhumane conditions, mistreatment and torture, as well as denial of food and water as punishment as well as a general lack of adequate food and water for the prisoners. The RAD acknowledged that there were differences between New Regime and Old Regime prisons but found that the evidence indicated that "these dehumanising and life-threatening conditions pervade the entire prison system." (RAD Decision, para 28).

[15] The RAD found that the proscribed acts were committed as part of a widespread state or organizational policy, concurring with the RPD's findings about the evidence for this conclusion. This included that the MPPSP does not maintain records of the prison population or share

official data on prison conditions, and it discredits any reporting that is critical of the prison system. The MPPSP refused to acknowledge the life-threatening conditions in prisons, and did not investigate or punish allegations of torture, inhumane or degrading treatment of prisoners.

[16] Overall, the RAD agreed with the RPD that there was no credible evidence that the government of Venezuela had made any significant improvements in the country's prison system. In fact, there was evidence that the situation had worsened after the 2013 death of the former President, Hugo Chavez. The RAD found that the MPPSP had, in practice, played a vital role in creating and maintaining a dual prison system, with the gangs (known as "pranes") in control of large portions of the system. In the Old Regime prisons under the control of the gangs, both guards and gang members subjected prisoners to extortion and violence, fueled by drugs and arms trafficking.

[17] The RAD summarized its conclusion on this point in the following way:

> [35] The evidence establishes that inhumane acts causing great suffering, including the perpetuation of life-threatening prison conditions and severe overcrowding, are essentially the MPPSP's "standard operating procedure" in Venezuela with respect to the treatment of prisoners, and as such constitute an organizational policy.

[18] Turning to the *Ezokola* factors, the RAD generally agreed with the RPD's assessment. The Applicant did not contest the voluntariness component, given his work history with the MPPSP. He knew the Minister responsible for prisons when they were in university together and was hired by her and subsequently promoted into very senior positions (described in more detail

below). There was no evidence that he was coerced into remaining with the organization. Based on this, the RAD found that his contribution was voluntary.

[19] The bulk of the Applicant's arguments before the RAD were directed to whether the MPPSP had committed crimes against humanity and, if so, whether he made a significant and knowing contribution. For the reasons summarized above, the RAD found that the MPPSP had committed crimes against humanity, and that the PA's participation had been voluntary. The Panel then turned to the other elements of the test: whether the Applicant's contribution had been "significant" and "knowing."

[20] The RAD found that the Applicant had made a significant contribution. It noted that the Applicant had occupied very senior positions in the MPPSP, reporting directly to the Minister who in turn reported to the President. As General Director of Penitentiaries Establishment, the PA was responsible for infrastructure and living conditions in New Regime prisons, including access to food and water, and waste disposal. During this time, the RAD found there were inhumane and life-threatening conditions in New Regime Prisons. The Applicant was then the Single Transfer Authority, and according to his evidence he was responsible for the transfers of prisoners in Old Regime and New Regime prisons. During that period, overcrowding remained rampant, and there is evidence that in one instance the Applicant was responsible for the denial of medical care to a prisoner.

[21] The Applicant argued on appeal, as he had before the RPD, that he had tried to improve the situation in New Regime prisons and was not responsible for the conditions in Old Regime

institutions. He generally tried to minimize his involvement, denied knowledge of the water and food shortages, and questioned the reports on prison conditions because they did not distinguish between Old Regime and New Regime prisons. The RAD agreed with the RPD's assessment that the Applicant's evidence lacked credibility, for reasons that are discussed in more detail below.

[22] The RAD found that the evidence showed that deplorable conditions existed in both Old Regime and New Regime prisons, and that it was government or at least MPPSP policy that created and perpetuated these conditions. The Applicant held senior positions in MPPSP and was directly responsible for infrastructure including the provision of food and water in New Regime prisons. He therefore made a significant contribution. The RAD agreed with the RPD's finding that his denial of knowledge about prison conditions lacked credibility. Based on this, the RAD found that the Applicant had failed to demonstrate that the RPD erred in finding him inadmissible.

[23] The RAD also found that the AAs had failed to establish that the RPD erred in finding that they did not face risks in Colombia. The RAD therefore dismissed the appeal.

[24] The Applicants seek judicial review of the RAD's decision.

III. Issues and Standard of Review

[25] The determinative issue in this case is whether the RAD erred in finding that the Applicant made a significant and knowing contribution to crimes against humanity committed by

the MPPSP. The Applicants also argued that the RAD's findings about the AAs' risk in Colombia were unreasonable, and I will discuss this after dealing with the PA's inadmissibility.

[26] These questions are to be assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*].

[27] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85; *Mason* at para 8). The onus is on the Applicants to demonstrate that "any shortcomings or flaws … are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

IV. Analysis

A. *The law on inadmissibility for complicity in war crimes or crimes against humanity*

[28] Section 98 of *IRPA* states that "(a) person referred to in section E or F of Article 1 of the Refugee Convention is not a Convention refugee or a person in need of protection." The relevant provision in this case is Article 1F(a), which states:

> The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
>
> (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

[29] Section 98 can apply to an individual who has committed a war crime or a crime against humanity, but it also applies to someone who is complicit in such crimes. In order to find a person complicit in crimes against humanity under the framework set out in *Ezokola*, there must be serious reasons for considering that they have voluntarily made a significant and knowing contribution to a group's criminal purpose or to an offence contrary to the *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24 [the *Act*] (*Ezokola* at paras 29, 77 and 84).

[30] The *Act* defines a crime against humanity as including, among other things, "imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group…" The onus lies on the Minister to establish "serious reasons to consider" that such a crime has been committed, and that the Applicant was complicit in it: *Ezokola* at para 29. The evidentiary burden requires more than a mere suspicion but less than a balance of probabilities; it is a unique evidentiary burden that will depend on the facts of each case: *Ezokola* at para 101.

[31] In *Ezokola* at para 91, the Supreme Court of Canada set out the following list of factors to determine whether an individual has voluntarily made a significant and knowing contribution to a crime against humanity:

(i) the size and nature of the organization;

> (ii) the part of the organization with which the refugee claimant was most directly concerned;
>
> (iii) the refugee claimant's duties and activities within the organization;
>
> (iv) the refugee claimant's position or rank in the organization;
>
> (v) the length of time the refugee claimant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose; and
>
> (vi) the method by which the refugee claimant was recruited and the refugee claimant's opportunity to leave the organization.

[32] The Supreme Court emphasized that while these factors provide guidance, "the focus must always remain on the individual's contribution to the crime or criminal purpose" (para 92). Guilt by mere association is not part of the law. Instead, a careful examination of the specific facts of each case is required; it is a highly contextual inquiry, that examines the facts in light of the context and the specific evidence about the individual's involvement.

B. *Is the RAD's analysis reasonable?*

[33] The Applicants do not take issue with the RAD's finding that crimes against humanity occurred in the Venezuelan prison system. And the PA conceded that his participation with MPPSP was voluntary. He was hired by the Minister and there was no evidence he was coerced into staying with the organization. Although the Applicants mentioned during the hearing of this matter that the RAD failed to consider the possibility that the PA stayed in the MPPSP due to fear, they did not point to any evidence supporting that claim that the RAD ignored. That issue was not raised before the RAD nor is there evidence to support it. The voluntariness element is not in question in this case.

[34] The Applicants focused their arguments on the finding that the PA made significant and knowing contributions. I will discuss each element separately.

(1) The Significance of the PA's contribution

[35] The main theme of the Applicants' argument is that the PA was a reformist and activist who did his best to improve the system. They submit that the RAD gave inadequate attention to this aspect of his evidence. The Applicants argue that by overlooking the possibility that the PA's role included efforts to resist corruption and to report human rights abuses, the RAD overstated his role and wrongly found that he knowingly made a significant contribution to the wrongdoing in the prison system.

[36] On the significance of his participation, the PA submits that the RAD erred by failing to consider the broader systemic issues affecting the prison system that contributed to the poor conditions. This includes the fact that the Old Regime prisons, where significant wrongdoing occurred, were under the control of the pranes. He says these factors were beyond his control, and the RAD erred by failing to consider the evidence showing that the New Regime faced an almost impossible task in attempting to reform the entire prison system. The PA says that the MPPSP had noble intentions but was thwarted by the systemic problems inherent in the Old Regime prisons.

[37] According to the Applicants, the evidence on the long-standing issues with Old Regime prisons and the limited capacity of the MPPSP to change them should have resulted in a finding that the PA was not complicit in crimes against humanity. He says the RAD diminished the

importance of his evidence about his attempts to address the wide-spread problems in the prison system. The RAD erred, according to the PA, by failing to examine the limits on his power and authority given the evidence about corruption, gang control over Old Regime prisons, and the lack of resources available to the MPPSP. According to the Applicants, a proper consideration of the wider context supports a finding that the PA's contribution was not significant.

[38] The Applicants also challenge the RAD's credibility findings, arguing that the PA's testimony must be evaluated against the roles he held within the MPPSP and the complex systemic issues that plagued the Venezuelan prison system. They say that the PA had administrative roles within the MPPSP, and he did not have any direct dealings with the daily operation of the prisons. The Applicants' main arguments are that the RAD ignored the PA's reform efforts and failed to give due consideration to the fact that the issues and problems in the prison system were well beyond the PA's control. They claim that these factors should have lead the RAD to conclude that the PA did not make a significant contribution.

[39] I am not persuaded by the Applicants' arguments on the significance of the PA's contribution. The RAD's analysis closely tracked the applicable legal framework, which it carefully applied to the evidence.

[40] In *Ezokola* at para 87, the Supreme Court found that "mere association becomes culpable complicity for the purposes of 1F(a) [of the Convention] when an individual makes a significant contribution to the crime or criminal purpose of a group [emphasis added]." Under the *Ezokola* framework, a direct contribution to crimes against humanity is not required. A person can be

culpable if they contributed to the "wider concepts of common design, such as the accomplishment of an organisation's purpose by whatever means are necessary, including the commission of war crimes" (*Ezokola*, para 87).

[41] This approach has been adopted in the jurisprudence of this Court. In *Canada (Citizenship and Immigration) v. Alamri*, 2023 FC 203 [*Alamri*] at para 28, the Court confirmed that "neither personal participation, nor personal proximity to the relevant crimes is necessary to be found complicit in crimes against humanity." Instead *Ezokola* requires an assessment of "whether duties performed by an individual, that are not necessarily in and of themselves criminal, nonetheless amount to a significant contribution to a group's crimes or criminal purpose." (*Alamri* at para 28). As explained in *Akene v. Canada (Citizenship and Immigration)*, 2024 FC 397 [*Akene*] at para 27, "[t]hus, even though the Applicant may view his activities as 'standard,' routine, or even non-criminal, they may nevertheless significantly contribute to the commission of a crime."

[42] In assessing whether the PA made a significant contribution to the crimes against humanity committed in the Venezuelan prison system, the RAD examined the length of his employment in the MPPSP, the senior ranks he occupied, and his specific roles and responsibilities. These are all factors specifically mentioned in *Ezokola* at paras 96-99, and I can find no error in the RAD's consideration of them. The RAD noted that the PA was employed in the MPPSP from 2011 to 2018, holding positions of increasing responsibility within the organization. From 2014 to 2018, he reported directly to the Minister, as General Director of

Penitentiaries Establishment, Single Transfer Authority and finally General Director of MPPSP Planning and Budget Office.

[43] The Applicants argue that the RAD focused too much on the titles held by the PA and did not pay sufficient attention to his specific roles and responsibilities. They say that a complicity finding requires an examination of the specific powers the individual exercised, but that was not done by the RAD. They say that the RAD also erred by failing to distinguish between evidence of poor conditions in Old Regime and New Regime prisons, because the former were not under the control of the MPPSP during the PA's tenure.

[44] I disagree. The RAD discussed the PA's job titles but also examined his duties and responsibilities and their connection to the deplorable conditions in Venezuelan prisons. The RAD rejected the PA's claim that there was a stark contrast between the conditions in the Old Regime and New Regime prisons. While it accepted that the MPPSP, and, by extension, the PA, had limited authority in practice over the situation in Old Regime prisons, the RAD nevertheless found that the deliberate infliction of deplorable conditions was a characteristic of the entire prison system.

[45] The RAD also noted the PA's testimony that he was responsible for transfers of prisoners in both Old Regime and New Regime prisons. This was particularly significant for the RAD, because the PA's testimony evolved when he was challenged on this point, and he did not directly explain why he had claimed to be responsible for prisoner transfers within the entire system.

[46] The RAD agreed with the RPD's negative credibility findings regarding the PA's efforts to minimize his involvement in the conditions inside Venezuelan prisons. For example, the RAD noted that when the PA held the positions of Director of the North East and Insular Region and General Director of Penitentiaries Establishment, he was responsible for fundamental aspects of prison infrastructure and living conditions in New Regime Prisons. This included ensuring access to potable water, adequate food, and effective waste disposal. The RAD found that inhumane and life-threatening conditions prevailed during the PA's tenure, leading to a considerable increase in the number of deaths inside prisons due to illness and malnutrition. Among other things, the RAD noted that the denial of food and water to inmates were commonly practiced disciplinary measures by the MPPSP.

[47] The RAD was not persuaded by the PA's attempts to minimize his involvement in the wrongdoing. The Applicants continue to assert that there was insufficient evidence of the PA's direct involvement in the specific actions that caused or continued the deplorable situation in Venezuelan prisons. They say that the evidence shows that the Old Regime prisons remained outside of the effective control of the MPPSP because they were run by the pranes. The Applicants contend that the RAD failed to give this evidence sufficient weight in its analysis, and it thereby held the PA accountable for things that were beyond his control. They say that the RAD gave undue emphasis to the wrongdoing while diminishing the PA's efforts to reform the system.

[48] I cannot accept the Applicants' argument for two reasons. First, evidence of direct involvement in war crimes or crimes against humanity makes the complicity analysis irrelevant.

A person with such direct involvement is inadmissible by that fact alone. Complicity only arises where direct involvement is not established. And *Ezokola* and the subsequent jurisprudence has consistently found that direct involvement in criminality is not required: see *Alamri* at para 28; *Akene* at para 27.

[49] Moreover, I find the Applicants are relying on assertions and speculation on this point rather than evidence or the actual findings of the RAD. At no point in its decision did the RAD discount or doubt the differences between Old Regime and New Regime prisons. The RAD accepted that the pranes exercised control over Old Regime prisons, with cooperation and collusion of corrupt prison officials, all fuelled by the illicit drug trade. However, it also carefully examined the documentary evidence that indicated that inhumane and life-threatening conditions persisted in New Regime prisons throughout the PA's tenure with the MPPSP. Based on its evaluation of the evidence, the RAD did not find a clear demarcation between the situation in Old Regime and New Regime prisons. Crimes against humanity occurred in all elements of the Venezuelan prison system. There is no basis to question this finding.

[50] The RAD made negative credibility findings based on the PA's testimony, following a careful examination of his evidence. The RAD found that when the PA was confronted with evidence that contradicted his testimony that he had improved conditions in New Regime prisons, he "gave vague explanations and downplayed his involvement, minimized the severity of what was reported, questioned the accuracy of the reports, and/or indicated he was unaware of the problem." (RAD Decision, para 54).

[51] Specific examples of such testimony were cited by the RAD. When asked if there were any problems with access to drinkable water in Venezuelan prisons, the PA testified that he recalled a single incident when a water pump failed. When confronted with objective evidence that prisoners could only obtain drinkable water from relatives, the PA responded that “there are two seasons in Venezuela, a rainy season and a dry season.” (RAD Decision, para 56). He also questioned the reliability of the reporting and said that he had tried to find solutions when we became aware of the problems. The RAD found the PA’s evidence to lack credibility because it was contradicted by ample objective evidence showing the deplorable living conditions in the prisons, in particular the lack of sufficient food or access to potable water. The RAD’s analysis is based on the evidence, clearly explained with detailed reference to the record, and I can find no basis to question it.

[52] The Applicants argue that the RAD overlooked the possibility that the PA’s role included efforts to resist the maltreatment of prisoners and that he reported human rights abuses. I am not persuaded by this point, because the Applicants have failed to point to any specific evidence that the RAD ignored. There are indications that the PA was involved in reform activities at an earlier point in his life. However, the Applicants’ argument rests on the steps he took while employed by the MPPSP. They have failed, however, to provide specific instances of such evidence. Even if there was evidence that the PA took concrete steps to make practical reforms in the prison system, it is not clear that this would be an absolute shield against a finding of complicity. I need not resolve this question, however, because there are no specific examples of evidence of the PA’s reform efforts that the RAD failed to consider.

[53] To the contrary, the one specific incident cited by the RAD points against the Applicants' argument. The RAD noted that during the period that the PA was the Single Transfer Authority, it was reported that he denied a transfer request by a political prisoner who needed medical treatment. The RAD rejected the PA's explanations for this, in which he sought to shift blame to others and to deny knowledge of the matter. The RAD found that the report was more reliable than the PA's testimony. This undermines the Applicants' claim that the PA was devoted to reforming and improving the prison system, and the RAD reasonably relied on this and other evidence in support of its findings.

[54] Based on this, I am not persuaded that the RAD's finding that the PA made a significant contribution was unreasonable. The RAD cited the appropriate legal standard and applied it with care to the facts in the record. The analysis of this element is clear, coherent and logical. That is what is called for under the *Vavilov* framework. The RAD's finding on this question is reasonable.

(2) Did the PA make a "knowing" contribution

[55] The Applicants' main argument on this branch of the test is that the RAD failed to consider that the PA was relying on reports from prison authorities and guards, who may not have been honest in reporting the actual conditions in prisons. They point out that the PA had administrative roles and was not directly responsible for prisons during much of the relevant period. There is evidence that guards collude with the pranes in Old Regime prisons, and with criminal actors in New Regime prisons. They submit that the RAD failed to consider the impact of this on the PA's knowledge about what was actually going on inside the prisons.

[56] Once again, I find that the Applicants' argument founders because it relies on speculation rather than pointing to specific evidence. In contrast to the Applicants' claims, the RAD made specific reference to the PA's testimony and the evidence about his responsibilities in the MPPSP.

[57] The RAD reasonably found that the PA's senior positions included responsibility for fundamental aspects of the living conditions in all New Regime prisons and for prison transfers, which made it more likely that he was aware of the overall situation in the prison system. Although the PA said he would have been advised of major problems in any of the prisons, he denied knowledge of the inadequate access to food and water, widespread unsanitary conditions and overcrowding that characterized Venezuelan prisons during this period. The RAD found the PA's denials to be implausible, and I can find no fault with this conclusion.

[58] The objective evidence is consistent on many points, including the lack of food and drinkable water, as well as the rampant overcrowding and unhealthy living conditions experienced by prisoners in Venezuela. There are ample reports of protests by prisoners against these conditions, including some riots. The reports also indicate that the denial of food and water was a policy adopted by the MPPSP to discipline inmates. The RAD noted that the PA testified he met with prisoners' family members and toured prisons from time to time. The RAD reasonably concluded that the PA had access to information that would have indicated the types of problems being encountered in New Regime prisons.

[59] Based on this, the RAD concluded that there are serious reasons for considering that the PA made a knowing contribution to the MPPSP's crimes against humanity. I can find no fault with the RAD's conclusion on this point. The PA's attempt to disavow any knowledge of the mistreatment that was so widespread, and so profound during the relevant period was simply not credible. The RAD reasonably rejected it. There is no basis to fault its analysis of the knowledge factor.

(3) Conclusion on complicity

[60] Based on the analysis set out above, I am unable to accept the Applicants' challenge to the RAD's finding that the PA was complicit in the MPPSP's crimes against humanity. On the evidence, he voluntarily made a significant and knowing contribution to the rampant mistreatment and abuse of prisoners housed within the Venezuelan prison system. These conditions persisted, and in some respects appear to have worsened, while the PA held very senior positions within the MPPSP. His claim that he tried to reform the system is simply not supported by specific evidence. And his efforts to minimize his involvement were carefully analysed and rejected by the RAD. Its findings are reasonable, clearly explained and rooted in the evidence in the record.

[61] There can be no doubt that the MPPSP faced many challenges in its efforts to reform the prison system. The fact that criminal gangs continue to control significant parts of the system inevitably blunted the impact of the MPPSP on the system as a whole. That does not, however, excuse the failings in the New Regime prisons that the RAD sets out in careful detail. On this, it is worth noting that the RAD found that the Minister responsible for the MPPSP appears to have

reached an agreement with the pranes, leaving them in control of parts of the prison system. This tends to confirm the finding that the mistreatment that resulted from this decision was a deliberate policy of the MPPSP.

[62] The PA continued to work in the MPPSP despite his knowledge of the problems that were continuing to occur, and his roles contributed in a significant manner to the "common enterprise" of the abuses within the prison system. The RAD reasonably found the PA's attempts to minimize his involvement and disavow knowledge of the mistreatment of prisoners to be lacking in credibility. By virtue of these findings, the PA was reasonably found complicit in the MPPSP's crimes against humanity.

[63] It bears repeating at this point that the law only required the RAD to find "serious reasons to consider" that the PA played a voluntary, knowing and significant role in the MPPSP's crimes against humanity. The RAD did not stray from its duty to focus on the PA's specific contribution to these crimes, and its analysis is a far cry from the type of guilt by association that *Ezokola* forbids. Instead, I find that the RAD undertook a careful analysis with a clear focus on the proper legal test and a sharp eye on the evidence in the record. That is what reasonableness demands, under the *Vavilov* framework.

C. *The AA's risks in Colombia*

[64] The AAs are legally citizens of Colombia by descent, and they have the right to acquire proof of that citizenship. The RAD agreed with the RPD's finding that they had not established that they faced a risk of persecution or threat to their lives or security if they went to Colombia.

[65] The Applicants argue that the RAD failed to consider the evidence of the various threats they would face from drug traffickers or more generally because of the mistreatment of people from Venezuela who move to Colombia. They say that the RAD failed to consider that the PA's reformist efforts had drawn the ire of criminal gangs and corrupt officials, who had the means and motivation to track them down across the porous border between Venezuela and Colombia.

[66] I am unable to accept the Applicants' argument on this point. The RAD analyzed the evidence, noting that the AAs could acquire Colombian citizenship and that there was no indication of widespread mistreatment of Colombian citizens of Venezuelan origin. The RAD accepted that drug traffickers operate in both Venezuela and Colombia. However, the RAD found there was insufficient evidence to support the Applicants' claim that the drug traffickers had any motivation to pursue them. The RAD reasonably noted that seven years had elapsed since the events in question in Venezuela, and there was no indication that drug traffickers, criminal gangs or corrupt officials had made any attempts to locate the Applicants during that time. The RAD rejected the Applicants' claims of risk from drug lords and corrupt Venezuelan officials as based on speculation.

[67] The RAD's analysis of the AAs risks in Colombia is reasonable. It is based on the evidence and clearly explained. There is no basis to question it.

V. Conclusion

[68] For the reasons set out above, the Applicants' judicial review is dismissed.

[69] I agree with the Applicants that an assessment of inadmissibility based on complicity requires a careful assessment of the individual's actual contribution to the organization's crimes. I find that this is precisely what the RAD did in the present case: it examined the evidence to assess whether the Minister had established serious reasons to consider that the PA had made a voluntary, knowing, and significant contribution to the MPPSP's crimes against humanity.

[70] The RAD reasonably assessed the PA's evidence, finding his efforts to minimize his role and to disavow knowledge of the wrongdoing to be lacking in credibility. Moreover, the RAD reasonably preferred the objective evidence about prison conditions in New Regime prisons over the Applicants' attempts to limit the mistreatment of inmates to Old Regime prisons. There is no basis to question the RAD's conclusion that the PA was complicit in the MPPSP's common enterprise, by virtue of the specific responsibilities he held in the various senior positions he occupied.

[71] There is also no basis to fault the RAD's analysis of the AAs risks in Colombia. Therefore, the application for judicial review is dismissed.

[72] There is no question of general importance for certification.

JUDGMENT in IMM-3384-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question of general importance for certification.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-3384-24
STYLE OF CAUSE:	ADOLFO ALEXANDER CARILLO VIVAS, JUAN JOSE CARILLO LOPEZ, BLANCE CECILIA LOPES v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	DECEMBER 11, 2024
JUDGMENT AND REASON:	PENTNEY J.
DATED:	JULY 30, 2025

APPEARANCES:

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