

Federal Court



Cour fédérale

**Date: 20250929**

**Docket: IMM-11530-24**

**Citation: 2025 FC 1599**

**Ottawa, Ontario, September 29, 2025**

**PRESENT: The Honourable Madam Justice Blackhawk**

**BETWEEN:**

**MOHAMMADEBRAHIM PEYVASTEGAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] This is an application for judicial review of a decision of an Immigration Officer (Officer) of Immigration, Refugees and Citizenship Canada (IRCC), dated May 3, 2024 (Decision), denying the Applicant's application for permanent residence under the Start-up Business Class (SUBC) because the Applicant did not alleviate the Officer's concerns that the purpose of the application was not to acquire status or privilege in Canada.

[2] The Applicant argues that the Decision is unreasonable because the Officer failed to identify what an “artificial transaction” means in the context of this application, why the Applicant’s business did not qualify, and the Officer misinterpreted the evidence.

[3] The Respondent argues that the Decision was reasonable, that the Decision was supported by the evidence, is transparent, and intelligible.

[4] For the reasons that follow, this application is dismissed; I find the Decision to be reasonable.

## II. Background

[5] On October 15, 2021, the Applicant applied for permanent residence under the SUBC. Included in the application are the Applicant’s spouse and their dependent children. The Applicant and included family members are all citizens of Iran.

[6] The Applicant is 40 years old. He has a background in the petrochemical industry. The Applicant and his business partner, Hamed Ghazi, developed an idea to optimize agricultural production for hydroponic farms using artificial intelligence and the Internet of Things sensors.

[7] The Applicant entered a business incubation program with a designated entity (DE), Biomedical Commercialization Canada Inc, operating as Manitoba Technology Accelerator (MTA). The Applicant and his business partner received their letter of support from the DE in October 2021.

[8] The Applicant's business, Aiponix Technologies Inc. was incorporated in Canada on June 17, 2021.

[9] In October 2021, the Applicant made the SUBC application using the online portal.

[10] In 2022, the Applicant's business partner visited Quebec on a Tourist Visa. The business partner spent time visiting with family in Quebec; however, he also explored business opportunities and attended seminars related to hydroponic farming.

[11] The Applicant attended on-line incubation program classes through the MTA for 18 months. He graduated from the program in February 2023.

[12] The GCMS notes indicate that on November 29, 2023, the Officer found that the Applicant's proposed business, Aiponix, was a qualifying business for the SUBC program.

[13] On November 18, 2023, the Applicant was requested to provide further information to support his SUBC application. The Applicant responded to the request.

[14] On December 1, 2023, the Applicant was requested to provide further information to support his SUBC application. The Applicant responded to the request.

[15] On December 29, 2023, the Applicant was requested to provide further information to support his SUBC application. The Applicant responded to the request.

[16] On January 8, 2024, the Applicant was provided a procedural fairness letter (PFL) that highlighted concerns the reviewing Officer had with the Applicant's SUBC application. The Officer stated that there were concerns related to artificial transactions as set out at paragraph 89(b) of the *Immigration, Refugee Protection Regulations*, SOR/2002-227 (*IRPR*). The Applicant responded to the PFL letter's request for additional information.

[17] The Applicants application was refused on May 3, 2024.

### III. Issues and Standard of Review

[18] The parties submit and I agree that the applicable standard of review in this case is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (*Vavilov*) at paras 25, 86).

[19] Reasonableness review is a deferential standard and requires an evaluation of the administrative decision to determine if the decision is transparent, intelligible, and justified (*Vavilov* at paras 12–15, 95). The starting point for a reasonableness review is the reasons for decision. Pursuant to the *Vavilov* framework, a reasonable decision is “one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker” (*Vavilov* at para 85).

[20] To intervene on an application for judicial review, the Court must find an error in the decision that is central or significant to render the decision unreasonable (*Vavilov* at para 100).

[21] The sole issue in this application is the reasonableness of the Decision.

#### IV. Start-up Business Class Program Legislative Scheme

[22] An applicant seeking permanent residence pursuant to the SUBC program must first apply for a permanent residence visa. The onus is on an applicant seeking permanent residence to submit an application that is complete and demonstrates with supporting evidence that they have a right to enter Canada (*Tiben v Canada (Citizenship and Immigration)*, 2020 FC 965 at para 31; subsection 11(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*)).

[23] The SUBC program was launched by the Government of Canada in March 2013 to provide a pathway to permanent residence for entrepreneurs seeking to launch a start-up business in Canada. On April 11, 2018, the *IRPR* were amended to incorporate sections 98.01 to 98.13, which set out the statutory requirements for the SUBC program.

[24] An applicant seeking permanent residence under the SUBC must fulfill the requirements set out in subsection 98.01(2) of the *IRPR*. In *Phan v Canada (Citizenship and Immigration)*, 2022 FC 916 (*Phan*), Justice Little summarized these requirements as follows:

Under *IRPR* subsection 98.01(2), a foreign national is a member of the Start-up Business Class if: (a) they have obtained a commitment made by one or more entities designated under the *IRPR* and that complies with certain other conditions; (b) they have attained a certain level of language proficiency; (c) they have a certain amount of transferable and available funds; and (d) they have started a qualifying business within the meaning of section 98.06.

[25] Subsection 98.04(1) of the *IRPR* states that a commitment is an agreement between a DE and the applicant which confirms that the applicant's business is participating in or has been accepted into the DE program. Pursuant to subsection 98.08(1), an application may be refused if an officer is not satisfied that the DE assessed the applicant and their business in a manner that is consistent with industry standards.

[26] Subsection 98.10(1) of the *IRPR* states that an officer may substitute their evaluation of an applicant's ability to become economically established in Canada, but for the requirements set out at subsection 98.01(2) of the *IRPR*, if meeting or failing to meet the requirements is not a sufficient indicator of the applicant's ability to become economically established in Canada.

[27] Paragraph 89(b) of the *IRPR* states that a SUBC applicant must satisfy a reviewing officer that their participation in the SUBC program is not primarily for the purpose of acquiring status or privilege under the *IRPA*.

#### **Artificial transactions**

89 For the purposes of this Division, an applicant in the self-employed persons class or an applicant in the start-up business class is not considered to have met the applicable requirements of this Division if the fulfillment of those requirements is based on one or more transactions that were entered into primarily for the purpose of acquiring a status or privilege under the Act rather than

...

#### **Opérations factices**

89 Pour l'application de la présente section, ne satisfait aux exigences applicables de la présente section le demandeur au titre de la catégorie de travailleur autonome ou de la catégorie « démarrage d'entreprise » qui, pour s'y conformer, s'est livré à des opérations visant principalement à acquérir un statut ou un privilège sous le régime de la Loi plutôt que :

[...]

(b) in the case of an applicant in the start-up business class, for the purpose of engaging in the business activity for which a commitment referred to in paragraph 98.01(2)(a) was intended.

b) s'agissant d'un demandeur au titre de la catégorie « démarrage d'entreprise », dans le but d'exploiter l'entreprise envers laquelle a été pris un engagement visé à l'alinéa 98.01(2)a).

## V. Analysis

### A. *Artificial Transaction*

[28] The Applicant argues that the Decision is unreasonable because the Officer did not identify what an “artificial transaction means” and the Officer failed to specify what the artificial transaction was in relation to his application. Therefore, the Applicant argues that the Decision is not transparent or intelligible.

[29] The Respondent argues that the Decision was reasonable. The Respondent submits that the reasons for the Decision are clear. The Officer refused the Applicant’s application because the Applicant failed to satisfy paragraph 89(b) of the *IRPR* and failed to demonstrate that the commitment with the DE was primarily for the purpose of engaging in business activity and not to acquire status or privilege under the *IRPA*.

[30] As noted by Justice Ahmed in *Li v Canada (Citizenship and Immigration)*, 2022 FC 1327, paragraph 89(b) of the *IRPR* requires applicants to establish that their participation in the SUBC program is not primarily for the purpose of obtaining status or privilege under the *IRPA* (at paras 40–42).

[31] Recently in *Ajili v Canada (Citizenship and Immigration)*, 2023 FC 788, Justice Roy noted that the PFL letter read holistically, with the GCMS notes set out the basis or nature of the “artificial transaction” pursuant to paragraph 89(b) of the *IRPR* (at paras 12–13, 20 and 21).

[32] A review of the record illustrates that the Applicant was afforded three opportunities to provide information to IRCC to support his SUBC application:

- On November 18, 2023, a request letter was sent to the Applicant to provide additional information to support his application including a business plan and supporting documents concerning the proposed business;
- The Applicant responded and included a business plan dated May 2023;
- On December 1, 2023, a request letter was sent to the Applicant, requesting supporting documentation “describing the business activities and progress since your application for permanent residence was submitted. Please show us what has been achieved and the work you have accomplished thus far for your intended business in Canada”;
- The Applicant responded to this request, and included in the response were: monthly status reports from MTA; AIponix Monthly timesheets; and the North American Business Maturity Index for November 2021 and May 2023 indicating that he planned to outsource software and hardware development and would create an initial model/prototype by engaging with developers in Canada;
- On December 29, 2023, a subsequent request letter was sent to the Applicant for additional documents to support his application, in particular Officer was seeking



additional information to support the Applicant's business plan with respect to the development of a minimum viable product (MVP) and to provide supporting evidence of the progress. The Applicant was directed to "provide a letter detailing the specifics and provide supporting evidence" in respect to the out-sourcing for software development, the creation of an initial model/prototype and the evaluation of the prototype;

- The Applicant's response stated that "the percentages mentioned – 5% in software development (outsourcing), 10% in creating and initial model/prototype, and 10% in prototype evaluation – represent theoretical progress and were verified by mentor at the MTA accelerator". In addition, the Applicant provided images of the Android operating system.

[33] Then, on January 8, 2024, the Applicant was sent a PFL, where the Officer clearly sets out concerns, and provides the Applicant one more opportunity to respond:

**I have concerns that your primary purpose for entering into a commitment with the designated entity Manitoba Technology Accelerator is for the purpose of acquiring a status or privilege under the Act. I also have concerns with your intent to fulfill the requirement for which an essential part of your business operations is conducted in Canada.**

In the North American Business Maturity Index, you indicated that you will be outsourcing software and hardware development, and the creation of an initial model/prototype by engaging developers in Canada. Your business incubation program with Manitoba Technology Accelerator began in October 2021. The forecasted end date for your search for a software developer and identifying sensor providers was February 28, 2022. A request letter was sent to you on December 29, 2023 for more information on the development of the minimum viable product (MVP). You provided images of a static mock-up of the Android operating system software designed by an engineer, which were the same

images submitted in the business plan. It does not appear you have made efforts to contract/hire developers or sensor providers in Canada. **As of present, it does not appear you have made progress in the development of the MVP and that you will fulfill the requirement to conduct an essential part of your business's operations in Canada.**

... Before I make a final decision, you may submit additional information relating to this issue.

[Emphasis added.]

[34] In response to the PFL, the Applicant set out technical details for the planned artificial intelligence model development, details concerning software development preparations, and details of engagement with the Canadian technology sector. In addition, in his cover letter the Applicant explained that:

...

**Prototype Development Strategy:** Developing a software prototype without a comprehensive understanding of our customers' needs would be counter productive. ...

**Engagement with Canadian Legal Expertise:** We have contracted a Canadian legal consultant specialising in technology and intellectual property law. ...

**Preparation for Software Development:** The consultant is also assisting us in preparing for the software development phase, including drafting contracts for future Canadian software developers.

**Active Industry Engagement:** ... This part will be completed after our arrival in Canada. ...

**Networking with Canadian Investors:** We seek to establish connections ...

[35] On May 3, 2024, the Officer issued the Decision, denying the Applicant's application.

The Decision states in part:

I have reviewed and considered the information and documentation you have submitted in response to the procedural fairness letter. However, it was not sufficient to alleviate my concerns.

I am therefore satisfied on a balance of probabilities, that your primary purpose in entering the commitment with the designated entity, Manitoba Technology Accelerator, is for the purpose of acquiring a status or privilege under the Act and described under R89(b) of the IRPR. Therefore, you are not a member of the Start-up Business Class.

I am therefore refusing your application for permanent residence.

[36] The GCMS notes dated May 3, 2024 state in part:

...

**Applicant indicated the progress percentages assigned in the North American Business Maturity Index represent theoretical progress ...**

**The applicant's submissions led to my concerns that their primary purpose for entering into a commitment with the designated entity, Manitoba Technology Accelerator (MTA), is for the purpose of acquiring status or privilege under the Act.** Applicant does not appear to have made efforts to contract/hire developers or sensor providers in Canada. As of present, **it does not appear progress has been made in the development of the MVP.** Concerns with the applicant's intent to fulfill the requirement for which an essential part of the business's operations is conducted in Canada were also put forth in a procedural fairness letter (PFL) sent on 2024/01/08.

...

**The explanation provided by the applicant differs from the business plan. ...**

The applicant's response did not disabuse my concern as **it does not appear they have engaged in all of the assignments set out by the MTA**, some of which are expected to be completed prior to their arrival in Canada. ...

The applicant indicated engagement with Canadian technology sector by forming alliances with leading Canadian sensor manufacturers. ...A list of Canadian businesses were provided **but**

**applicant has not provided supporting documents to show contact has been initiated. ...**

While applicant has expressed intent to conduct an essential part of their business in Canada, my concerns that one or more transactions were entered into primarily for the purpose of acquiring a status or privilege under the Act were not dismissed. Upon careful consideration of all information on file, I am satisfied, on the balance of probabilities, that the primary purpose of the applicants in entered the commitment with the designated entity Manitoba Technology Accelerator is for the purpose of acquiring a status or privilege under the Act, and described under R89(b) of the IRPR. Therefore, the applicant is not a member of the Start-up Business Class.

[Emphasis added.]

[37] I find that the Applicant was provided several opportunities to provide documentation and information in support of his SUBC application, and that he failed to provide sufficient information to alleviate the Officer's concerns.

[38] I find that the PFL provided a transparent and intelligible explanation for the Applicant that identified the nature of and set out the specific concerns the Officer had with respect to the artificial transaction, pursuant to paragraph 89(b) of the *IRPR*. In the letter the Officer highlights the following concerns:

- The primary purpose for entering into a commitment with the DE MTA was to acquire status or privilege under the *IRPA*;
- The Applicant's intent to fulfill requirements that an essential part of his business operations be conducted in Canada; and
- The Applicant provided little evidence to demonstrate progress towards a MVP.

B. *Other Errors in the Officers Decision*

[39] The Applicant argued that the Officer failed to conduct a substituted evaluation, pursuant to section 98.10 of the *IRPR*, failed to explain why the Applicant's business is not a qualifying business, and misinterpreted the Applicant's business plan.

[40] The Respondent argues that the Applicant's arguments are interpreting the wording of the legislative provisions for SUBC applicants out of context and/or the Applicant disagrees with the Officer's assessment of the evidence.

[41] The Applicant acknowledges that a substituted evaluation is not mandatory; however, he suggests that the failure of the Officer to conduct one in the context of the other issues raised renders the Decision unreasonable. The Applicant has not pointed to any authority to support his assertion.

[42] I agree with the Respondent, the wording of subsection 98.10(1) of the *IRPR* is permissive and accordingly, the Officer was not under an obligation to substitute their own evaluation (*Phan* at para 68). The Applicant has not persuaded me that the Decision is unreasonable and that the Officer ought to have conducted a substituted evaluation.

[43] The Applicant argues that the decision was unreasonable because the Officer failed to explain why the business was not qualifying.

[44] I agree with the Respondent that the Officer's refusal was not based on section 98.06 of the *IRPR*.

[45] In addition, I note that upon review of the record for this matter, the initial evaluation of the Applicant's SUBC application on November 29, 2023 found the proposed business was a qualifying business venture pursuant to the *IRPR*.

[46] Finally, the Applicant argued that the Decision is unreasonable because the Officer misinterpreted the business plan. The Applicant argued that the Officer unreasonably determined that the Applicant's business was focused on wireless sensor technology and software rather than artificial intelligence.

[47] With respect, I am not persuaded by the Applicant's argument that the reviewing Officer misunderstood and misinterpreted the business plan. I have reviewed the record for this Application, including the Business Plan, May 2023. It was open to the Officer to find that the proposed business was in respect of the development of wireless sensors and software.

[48] The Applicant is requesting this Court to reweigh and assess the evidence considered by the Officer to reach a different conclusion, which is not the proper role of the Court in an application for judicial review (*Doyle v Canada (Attorney General)*, 2021 FCA 237 at paras 3-4).

[49] In any event, the Decision to deny the Applicant's SUBC application was not because of the way the Officer characterized the nature of the Applicant's proposed business. Rather, the

Applicant's application was denied because the Applicant did not alleviate the Officer's concerns that the application was not an artificial transaction, pursuant to paragraph 89(b) of the *IRPR*.

VI. Conclusion

[50] The Decision is reasonable. The Applicant has not persuaded me that the Officer made a reviewable error that would warrant this Court's intervention.

[51] The parties did not propose questions for certification, and I agree there are none.

**JUDGMENT in IMM-11530-24**

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

1. The application for judicial review is dismissed.
2. No question is certified.

"Julie Blackhawk"

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Judge



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

**DOCKET:** IMM-11530-24

**STYLE OF CAUSE:** MOHAMMADEBRAHIM PEYVASTEGAN v THE  
MINISTER OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDECONFERENCE

**DATE OF HEARING:** SEPTEMBER 15, 2025

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**DATED:** SEPTEMBER 29, 2025

**APPEARANCES:**

Dov Maierovitz  
Kate Smirnova

FOR THE APPLICANT

Margherita Braccio

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

EME Professional Corporation  
Thornhill, Ontario

FOR THE APPLICANT

Attorney General of Canada  
Toronto, Ontario

FOR THE RESPONDENT