

Federal Court



Cour fédérale

Date: 20251030

Docket: IMM-578-25

Citation: 2025 FC 1749

Toronto, Ontario, October 30, 2025

PRESENT: Madam Justice Whyte Nowak

BETWEEN:

GOHAR EJAZ

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks judicial review of a decision [Decision] of the Refugee Protection Division of the Immigration and Refugee Board [RPD] dated December 23, 2024. In the Decision, the RPD found that the Applicant has status in Italy that is substantially similar to that of Italian nationals which excludes him from refugee protection under Article 1E of the

Convention relating to the Status of Refugees, 28 July 1951, 189 UNTS 137 [*Refugee Convention*] and section 98 of *Immigration and Refugee Protection Act*, SC 2001, c 27.

[2] The Applicant submits that the Decision is unreasonable because the RPD committed a fatal flaw in its assessment of the Applicant's status which led it to err in its determination that the Applicant's status is substantially similar to that of Italian nationals. I disagree and find that the Decision is justified on the facts and the law that constrained the RPD. Accordingly, this application is dismissed.

II. Facts

A. *The Applicant's refugee claims*

[3] The Applicant is a 45-year-old citizen of Pakistan who says he fled his native country due to the discrimination and persecution he and his family faced as devout followers of the Ahmadi Muslim faith.

[4] In his Basis of Claim [BOC], the Applicant described anti-Ahmadi attacks that Ahmadi Muslims faced as well as personal attacks that he endured and reported to the police. The Applicant fled Pakistan in September 2019 with the intention of travelling to the United States where he hoped to eventually bring his wife and four children.

[5] The Applicant travelled to Dubai where his agent provided him with a Turkish visa which he used to travel to Turkey and then to Libya. The Applicant stayed for a period of time in Libya before travelling by boat to Italy.

[6] After his wife died in 2022, the Applicant says he became increasingly worried about his children who remained in Pakistan. He arranged for his children to meet him in Mexico on August 20, 2023. The Applicant and his children crossed into the United States where they were arrested and detained by border officials. After their release, the family travelled to Buffalo and made refugee claims at the Fort Erie Peace Bridge in Canada on September 5, 2023.

B. *The RPD hearing*

[7] The Applicant's refugee claim was heard together with that of his children on December 4, 2024.

[8] The Minister of Immigration, Refugees and Citizenship Canada [Minister] intervened in the family's case arguing that the Applicant was excluded from refugee protection as the Applicant has status in Italy similar to Italian nationals. It was only after the Minister's intervention that the Applicant amended his BOC to disclose, *inter alia*, the dates that he had travelled to Italy and the fact that he had sought and obtained refugee status there.

[9] The Applicant's amended BOC explains that while he was waiting for his agent to make further arrangements to depart Italy, he learned that the Italian police were conducting immigration raids, which led him to claim refugee status in Italy. His claim was accepted on

July 5, 2019, and he obtained a *Permesso di Soggiorno per Asilo* card, a copy of which he disclosed to the RPD.

C. *The RPD Decision*

[10] On December 23, 2024, the RPD issued its Decision in which it determined that, as of the date of the hearing, the Applicant had status in Italy that is substantially similar to that of Italian nationals thereby excluding him from Refugee Protection pursuant to Article 1E of the *Refugee Convention*.

[11] The RPD found that the Applicant purposely chose not to disclose his status in Italy to prevent the RPD from considering it in assessing his claim. The RPD noted that the Applicant had provided only “some of the documentation” from Italy as it pertains to his status and found his testimony lacked credibility.

III. Issues and Standard of Review

[12] The only issue raised by the Applicant is whether the RPD’s finding that the Applicant is excluded from refugee protection is reasonable.

[13] In reviewing the merits of a decision under a standard of review of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16-17 and 23-25 [*Vavilov*]), this Court must start by considering the RPD’s reasons read in light of the evidentiary record and consider whether the Decision falls within a “range of possible,

acceptable outcomes which are defensible in respect of the facts and law” that constrained it (*Vavilov* at para 86). It is a review that is deferential but nevertheless robust (*Vavilov* at paras 12-13) considering both the outcome and rationale of the decision with an eye to the hallmarks of public power which require that it be transparent, intelligible and justified to those to whom it applies (*Vavilov* at para 15).

IV. Analysis

[14] The Applicant makes three arguments as to why the RPD’s Decision is unreasonable.

A. *Did the RPD mistake the nature of the Applicant’s status in Italy?*

[15] First, the Applicant submits that the RPD fatally found that the Applicant had obtained permanent resident status in Italy whereas the evidence unequivocally showed that he had a form of temporary status based on his asylum.

[16] I find that the RPD understood the nature of the Applicant’s *Permesso di Soggiorno per Asilo* card and that it afforded temporary status, noting as it did that “*Asilo*” translates as “asylum.” I agree with the Respondent that the Applicant has unduly focused on two stray lines that mistakenly refers to “permanent” resident status; however, reading the Decision holistically and fairly, it is clear that the RPD understood the nature of the Applicant’s status.

- B. *Did the RPD unreasonably find that the Applicant has substantially similar rights as Italian nationals?*

[17] Second, the Applicant submits that the RPD erred in finding that as of the date of the hearing, the Applicant held substantially the same rights as Italian nationals. The Applicant alleges this error flows from the RPD's erroneous finding that the Applicant held a form of permanent status and that the documentary evidence shows that in practice, there are significant differences between the rights held by permanent residents and those held by Convention refugees. The Applicant notes for example, that for refugees, the evidence is to the effect that, "no home, no residency, no services."

[18] This submission does not withstand scrutiny as the RPD's conclusion on the Applicant's rights in Italy was based largely on the Applicant's own experience and on documentary evidence related to the rights afforded him based on a *Permesso di Soggiorno per Asilo* card.

That evidence showed that as of the date of the hearing on December 4, 2024:

- i) The Applicant's *Permesso di Soggiorno per Asilo* card shows that the Applicant has resident status in Italy which expires on July 30, 2025;
- ii) The Applicant worked in Italy;
- iii) The Applicant had a health/medical card and sojourn card (though he turned it over to his agent);
- iv) The documentary evidence confirms that status granted by the *Permesso di Soggiorno per Asilo* card does allow for family reunification;
- v) While the evidence before the RPD as to whether the Applicant had rights to social services was mixed, the RPD considered there to be insufficient evidence that the Applicant had been denied access to social services;

- vi) According to the country condition evidence, the *Permesso di Soggiorno per Asilo* card is valid for five years and is renewable;
- vii) There is no evidence to suggest that any process is in place to remove or vacate the Applicant's status; and
- viii) The Applicant has not lost his ability to return to Italy.

[19] Not only were these findings reasonably open to the RPD based on the record that was before it, but they disclose no error tied to any misapprehension on the part of the RPD as to the nature of the Applicant's status.

C. *Did the RPD fail to consider whether the Applicant can return to Italy?*

[20] Finally, the Applicant argues that the Decision is unreasonable because the RPD failed to consider whether the Applicant's status gives him the ability to return to Italy and that before applying an exclusion under Article 1E, the RPD had to be satisfied that there was "clear evidence" of the Applicant's right to return there and there was no such evidence (citing *Canada (Minister of Citizenship and Immigration) v Choovak*, 2002 FCT 573 at para 34).

[21] The RPD clearly turned its mind to this consideration, devoting a section of the Decision to the issue. The question then, is whether the Decision reflects clear evidence that the Applicant can return to Italy.

[22] At first blush, the RPD's reasons may seem insufficient to meet the clear evidence standard relying as they do on the absence of any evidence that steps have been taken to revoke the Applicant's status. This is simply a function of onus: given that the Applicant had status as

of the date of the RPD hearing, it was the Applicant who bore the burden of showing clear evidence that he was unable to return to Italy to enjoy the rights associated with his then valid temporary status, which evidence he failed to adduce.

V. Conclusion

[23] The Decision is justified on the facts and the law that constrained the RPD, and the Applicant has not satisfied his onus of showing otherwise. This application is therefore dismissed.

JUDGMENT in IMM-578-25

THIS COURT'S JUDGMENT is that:

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

"Allyson Whyte Nowak"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-578-25

STYLE OF CAUSE: GOHAR EJAZ v THE MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: HELD BY WAY OF ZOOM VIDEOCONFERENCE

DATE OF HEARING: OCTOBER 28, 2025

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DATED: OCTOBER 30, 2025

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