Federal Court  Cour fédérale

Date: 20251124

Docket: IMM-18769-24

Citation: 2025 FC 1859

Ottawa, Ontario, November 24, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

MOHAMMADREZA VADIATI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, along with his minor son, was granted asylum in April 2019. Their subsequent permanent residence application was denied due to the Applicant's inadmissibility under paragraph 34(1)(f) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], based on his service as a conscript soldier in the Iranian Armed Forces-Sepah (otherwise known

as the Islamic Revolutionary Guard Corps [IRGC]). The Applicant challenges that decision on judicial review, alleging it was both procedurally unfair and unreasonable.

[2] I am dismissing the application. The Applicant has failed to establish any procedural unfairness in the decision-making process. In response to a procedural fairness letter, he was given the opportunity to address Immigration, Refugees and Citizenship Canada [IRCC]'s concerns about his admissibility. However, the information he provided did not allay those concerns. Furthermore, in a thorough, well-reasoned decision, the IRCC officer explained why the Applicant was inadmissible. Those reasons are consistent with the prevailing jurisprudence.

II. Issues and Standard of Review

[3] Where breaches of procedural fairness are alleged, no standard of review is applied, but the Court's reviewing exercise is "best reflected on a correctness standard": *Canadian Hardwood Plywood and Veneer Association v Canada (Attorney General)*, 2023 FCA 74 at para 57; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54 [*CPR*]. The reviewing court must assess whether the procedure followed by the decision-maker was fair and just in the circumstances: *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35; *CPR* at para 54.

[4] On its merits, an admissibility decision under subsection 34(1) of the *IRPA* is reviewable on the standard of reasonableness: *Egharevba v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 1093 at para 10; *Zigta v Canada (Citizenship and Immigration)*, 2023 FC 93 at para 20; *Elmohamady Elmady v Canada (Public Safety and Emergency Preparedness)*, 2021

FC 1476 at paras 7–13; *Rana v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 1080 at para 19.

[5] 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": *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 8 [*Mason*]. A decision should only be set aside if there are "sufficiently serious shortcomings" such that it does not exhibit the requisite attributes of "justification, intelligibility and transparency": *Vavilov* at para 100; *Mason* at paras 59–61.

III. Analysis

A. *Admissibility of affidavit evidence*

[6] Generally, on judicial review, the evidence is restricted to the record before the decision-maker: *Gordillo v Canada (Attorney General)*, 2022 FCA 23 at para 52 [*Gordillo*]; *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at para 19 [*Access Copyright*]. While the list is not closed, there are three exceptions to this general rule. New evidence may be admissible if it: (i) provides general background information; (ii) highlights the complete absence of evidence before the decision-maker below; or (iii) demonstrates procedural unfairness in the decision-making process: *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 at paras 13–25; *Access Copyright* at para 20.

[7] Both parties tendered affidavit evidence in this application. The Applicant filed two affidavits. One affidavit is of the Applicant himself, filed in November 2024. This affidavit generally sets out the basis for the judicial review application and, for the most part, repeats what the Applicant submitted in his June 2024 response to the IRCC officer's procedural fairness letter, or includes information that can be found in the Certified Tribunal Record [CTR]. Since this affidavit was filed before the filing of the CTR, this evidence provided the judge necessary context when considering whether to grant leave. On this basis, I am satisfied that the affidavit evidence is admissible, in so far as it contains information before the decision-maker.

[8] However, I note that some of the statements in the Applicant's affidavit constitute inadmissible argument and conclusions of law: *Gordillo* at para 52; *Duyvenbode v Canada (Attorney General)*, 2009 FCA 120 at para 3. For example, concerning his military service, the Applicants states that "[t]his lack of choice underscores the involuntary nature of my service with the IRGC […]": Affidavit of Mohammadreza Vadiati dated November 12, 2024 at para 14, Applicant's Record at 36. In accordance with Rule 81 of the *Federal Courts Rules*, SOR/98-106, affidavits must be confined to relevant facts, without gloss or explanation: *Kouridakis v Canadian Imperial Bank of Commerce*, 2025 FC 60 at para 34. To the extent that the Applicant's first affidavit contains legal argument or conclusions, I have disregarded it.

[9] The Applicant's second affidavit dated September 25, 2025, is that of an individual who assists Applicant's counsel. The affidavit attaches three documents that "discuss the conscription of young men into the Iranian military for their mandatory service": Affidavit of John Coombs

dated September 25, 2025 at para 7. None of these documents were before the IRCC officer as they do not appear in the CTR.

[10] Notably, Exhibits B and C of this affidavit are dated November 2022 and December 2022 respectively and, thus, pre-date the Applicant's response to the officer's May 2024 procedural fairness letter. In that vein, these documents could have been filed, with due diligence, at that time. In fact, the Applicant was invited to substantiate his answers to the IRCC officer's questions about his IRGC service with "news reports, academic journal articles or other documents": Procedural Fairness Letter dated May 27, 2024 at 3 [PFL], CTR at 1026.

[11] The Applicant's further affidavit is, therefore, inadmissible on judicial review as it consists of evidence that was not before the IRCC officer. The Applicant argues that it fits within the exception of providing "general background". I do not agree. Rather, it provides evidence on the merits of this application. Furthermore, the Applicant argues that the "gist" of this evidence was before the IRCC officer in other documents. While that may be the case, the issue is that these three specific documents were not in evidence before the decision-maker and cannot now be relied upon on judicial review.

[12] The Respondent's affidavit is dated January 8, 2025, and was filed before leave was granted. It attaches two exhibits. The first exhibit is the IRCC officer's May 2024 procedural fairness letter which is in the CTR. Again, given that the CTR was not filed when the Respondent's record was due at the leave stage, the affidavit was included as evidence for the judge considering leave. The second exhibit is an IRCC operational document providing direction on humanitarian

and compassionate [H&C] applications made under subsection 25(1) of the *IRPA*. Respondent's counsel argues that this exhibit provides context and is admissible as general background under *Access Copyright*. However, as he fairly acknowledged, it is of no probative value in this case since the underlying decision is not an H&C decision. I have therefore disregarded this exhibit.

B. *No breaches of procedural fairness*

[13] In his written submissions, the Applicant argues that there was a breach of procedural fairness because his permanent residence application was "refused with no logical explanation" and the decision appears to have been made "without regard to the evidence": Applicant's Further Memorandum of Fact and Law at para 28 [AFMOFL].

[14] As I stated at the hearing, these are not procedural fairness issues but, rather, issues to be adjudicated on the reasonableness standard of review. *Vavilov* makes clear that "a decision must be based on reasoning that is both rational and logical": *Vavilov* at para 102. Further, a decision may be unreasonable where the decision-maker "failed to account for the evidence before it": *Vavilov* at para 126. Applicant's counsel stated, in response, that they would alternatively argue the decision was unreasonable on those grounds. I have thus considered these allegations under the reasonableness standard below.

[15] I agree with the Respondent that the Applicant has failed to establish any procedural fairness breaches in the decision-making process. Procedural fairness dictates that an officer must ensure than an applicant has a meaningful opportunity to participate in the decision-making process: *Asanova v Canada (Citizenship and Immigration)*, 2020 FC 1173 at para 29 [*Asanova*];

Bui v Canada (Citizenship and Immigration), 2019 FC 440 at para 27 [*Bui*]. Moreover, when a procedural fairness letter is sent, it must provide an applicant with sufficient information about an officer's concerns and a meaningful opportunity to respond: *Asanova* at para 32; *Bui* at para 29. Simply put, an applicant must know the case to meet.

[16] Here, the Applicant was given notice of the IRCC officer's concerns regarding his IRGC service by way of a procedural fairness letter dated May 27, 2024. In that letter, the officer particularized their concerns, setting out twenty-two questions they had about the Applicant's service. The IRCC officer also listed the sources consulted. The Applicant was advised that, in addition to answering the officer's specific questions, he could provide further information about his possible inadmissibility: PFL, CTR at 1024–1033.

[17] The Applicant answered the IRCC officer's concerns by way of email dated June 12, 2024, responding to each of the officer's questions in turn. I am satisfied that, in the circumstances, the Applicant was given a full and fair opportunity to respond to the IRCC officer's concerns about his admissibility to Canada based on his prior military service in Iran.

C. *The IRCC officer's decision is reasonable*

[18] The Applicant argues that the IRCC officer's decision is unreasonable for the following reasons: (i) failing to take into account the Applicant's particular circumstances, namely that he was a military conscript, in determining that he was a member of a terrorist organization in accordance with paragraph 34(1)(f) of the *IRPA*; (ii) failing to properly consider duress and/or

coercion in the context of the membership finding; and (iii) failing to address the issue of family reunification. As set out below, I am unable to agree.

(1) The Applicant's membership in the IRGC

[19] Pursuant to paragraph 34(1)(f) of the *IRPA*, a foreign national is inadmissible to Canada for being a member of an organization that there are reasonable grounds to believe engages, has engaged, or will engage in acts of terrorism.

[20] The Applicant takes issue with the IRCC officer's determination that he was a member of IRGC for the purposes of paragraph 34(1)(f). He argues that his admission of membership "should not be the end of the inquiry": AFMOFL at para 22. In that vein, the Applicant asserts that the officer should have considered the specific circumstances of his membership, such as his knowledge of the IRGC's methods and goals, the degree to which his participation was combative, and the duration of his participation.

[21] Based on the Applicant's admission that he was a conscript soldier in the IRGC for two years, the IRCC officer determined that his membership in the IRGC was established under paragraph 34(1)(f): Letter dated October 1, 2024 at 16 [IRCC officer's Decision], CTR at 36. This conclusion is well-supported by the jurisprudence. As Justice Grammond explains, "if an individual admits from the outset to being a member of an organization, it is not necessary to carry the analysis any further": *Nanan v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 138 at para 55 [*Nanan*]; see also: *Darwisheh v Canada (Citizenship and Immigration)*, 2024

FC 98 at para 11; *Al Ayoubi v Canada (Citizenship and Immigration)*, 2022 FC 385 at paras 24–25 [*Al Ayoubi*]; *Nassereddine v Canada (Citizenship and Immigration)*, 2014 FC 85 at para 57.

[22] This legal principle is rooted in the Federal Court of Appeal's jurisprudence holding that the term "member" in paragraph 34(1)(f) should be interpreted broadly: *Canada (Public Safety and Emergency Preparedness) v Gaytan*, 2021 FCA 163 at para 47 [*Gaytan*]; *Poshteh v Canada (Minister of Citizenship and Immigration)*, 2005 FCA 85 at paras 26–29; *Nanan* at para 54; *Al Ayoubi* at para 21. Based on the broad interpretation of "member", an individual need not have "contributed significantly to the wrongful actions of the group" to be considered a "member": *Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 22. Additionally, an individual's membership need not "correspond with the dates on which that organization committed acts of terrorism": *Gebreab v Canada (Public Safety and Emergency Preparedness)*, 2010 FCA 274 at para 3.

[23] Based on the foregoing, the IRCC officer did not fail to consider relevant evidence. The officer's determination that the Applicant's "admission of membership" was "sufficient to meet the membership requirement within the meaning of paragraph 34(1)(f) of the IRPA" is wholly consistent with the jurisprudence. There is thus no basis to interfere with this finding.

(2) The IRCC officer's consideration of the defence of duress

[24] The Applicant further argues that the IRCC officer erred in finding that duress was not an applicable defence. Further, he asserts that the officer "was also obligated to look at coercion as a

possibility for mitigating the Applicant's membership in the IRGC": AFMOFL at para 21. I do not agree.

[25] Notwithstanding that the Applicant did not raise duress as a defence in his response to the IRCC officer's procedural fairness letter, the officer considered whether the alleged penalties for failing to serve in the IRGC constitute duress. In doing so, the IRCC officer applied the Supreme Court of Canada's reasoning in *R v Ryan,* 2013 SCC 3 [*Ryan*].

[26] In *Ryan*, the Supreme Court held that the defence of duress "is available when a person commits an offence while under compulsion of a threat made *for the purpose of compelling* him or her to commit it" [emphasis in original]: *Ryan* at para 2. Moreover, the Supreme Court concluded that the defence was restricted to "situations where the accused has been compelled to commit a specific offence under threats of death or bodily harm" [emphasis added]: *Ryan* at para 29.

[27] Here, after considering the evidence, the IRCC officer determined that the Applicant failed to meet the high threshold of establishing duress:

> Based on the evidence, duress is not an applicable defence in this case because the applicant has not demonstrated that the potential consequences of failing to serve in the IRGC, such as imprisonment, imposition of fines, an extension of military service, and limitations on future employment and civil rights, meets the high threshold of imminent danger of death of [*sic*] bodily harm in cases of duress. Therefore, the applicant's conscription in the IRGC does not negate his membership in the group. […]
>
> [Emphasis added]
>
> IRCC officer's Decision at 18, CTR at 38.

[28] In oral submissions, Applicant's counsel argued that because *Ryan* was determined in the criminal law context, it should not be relied upon in the immigration law context. The jurisprudence, however, has specifically endorsed the application of this test for duress in immigration cases: *Gaytan* at para 80; *Diakenda v Canada (Public Safety and Emergency Preparedness)*, 2023 FC 447 at para 27; *Canada (Citizenship and Immigration) v Kljajic*, 2020 FC 570 at paras 166–167; *Gil Luces v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1200 at para 21; *Mohamed v Canada (Citizenship and Immigration)*, 2015 FC 622 at para 28; *Ghaffari v Canada (Citizenship and Immigration)*, 2013 FC 674 at para 20.

[29] Finally, the Applicant asserts that the IRCC officer erred in failing to consider coercion, arguing it is a distinct defence than duress, and that "[m]andatory military service is coercion even where it falls short of duress": AFMOFL at para 21. In support, the Applicant relies on *TK v Canada (Public Safety and Emergency Preparedness)*, 2013 FC 327 [*TK*]. In my view, such reliance is misplaced.

[30] In *TK*, the applicant argued that the decision-maker had erred in conflating duress and coercion: *TK* at paras 34–42. On the other hand, the respondent asserted that coercion and duress are interrelated concepts: *TK* at paras 60, 62. Significantly, the passages in *TK* relied upon by the Applicant are found within the Court's summary of the applicant's arguments. They do not reflect what the Court decided. In its analysis, the Court found that "[t]he Applicant makes much of the legal distinction between duress and coercion": *TK* at para 100.

[31] Ultimately, in *TK*, the Court found no error with the decision-maker's "[use of] 'coercion,' 'duress' and 'compulsion' interchangeably" and found that there was not "any necessity to introduce complex legal distinctions into this exercise": *TK* at paras 101, 104. In addition, the Court noted that, in *Jalloh v Canada (Public Safety and Emergency Preparedness)*, 2012 FC 317 (which the Applicant in the present case also relies on to support a distinction between duress and coercion), the terms "coerced" and "duress" were not used in a manner that "intended to draw out or apply any legal distinction between the two concepts": *TK* at para 104.

[32] Finally, in *Gaytan*, the Federal Court of Appeal equated the two concepts, treating them as a single defence — the defence of duress or coercion: *Gaytan* at paras 55–57, 59, 80–81, 106–108, 113. The certified question before the Court of Appeal was: "In determining whether an individual is inadmissible under paragraph 37(1)(*a*) of the [Act], are the [ID] and [IAD] entitled to consider the defence of duress?": *Gaytan* at para 4. In answering that question, the Federal Court of Appeal used "duress", "coercion" and "coerced membership" interchangeably and applied the legal test for duress as set out in *Ryan*: *Gaytan* at para 80.

[33] For these reasons, the Applicant has failed to demonstrate that the IRCC officer unreasonably concluded that he had not made out the defence of duress.

(3) Consideration of family reunification

[34] The Applicant argues that the IRCC officer erred in failing to consider family reunification in their admissibility analysis. I agree with the Respondent that this argument is without merit.

[35] As a starting point, this was not an H&C application, but an application for permanent residence as a protected person. As discussed, the IRCC officer determined that the Applicant was inadmissible under paragraph 34(1)(f) of the *IRPA*. At no point did the Applicant request an exemption based on H&C grounds. Thus, the officer reasonably did not address the issue.

[36] In any event, even if the Applicant had requested H&C relief, subsection 25(1) of the *IRPA* is clear that H&C considerations are not applicable where inadmissibility findings are made under section 34 of the *IRPA*, as in this case: *Rajmanoharan v Canada (Citizenship and Immigration)*, 2025 FC 1694 at paras 79–81; *Saeedi v Canada (Citizenship and Immigration)*, 2021 FC 557 at para 22.

[37] Indeed, subsection 25(1) provides as follows:

Humanitarian and compassionate considerations — request of foreign national	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger**
25 (1) Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35, 35.1 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35, 35.1 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or	**25 (1)** Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35, 35.1 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35, 35.1 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre

obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.
[Emphasis added]	[Non souligné dans l'original]

[38] The IRCC officer's decision is therefore not unreasonable for failing to consider the issue of family reunification.

IV. Conclusion

[39] Based on the foregoing, the Applicant has failed to establish any reviewable errors in the IRCC officer's decision finding that he was inadmissible under paragraph 34(1)(f) of the *IRPA* based on his membership in the IRGC. The application for judicial review is therefore dismissed.

[40] The parties did not propose any questions for certification, and I agree that none arise.

JUDGMENT in IMM-18769-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question for certification.

"Anne M. Turley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-18769-24
STYLE OF CAUSE:	MOHAMMADREZA VADIATI v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	OTTAWA, ONTARIO
DATE OF HEARING:	NOVEMBER 19, 2025
JUDGMENT AND REASONS:	TURLEY J.
DATED:	NOVEMBER 24, 2025

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