Federal Court  Cour fédérale

Date: 20260323

Docket: IMM-19881-24

Citation: 2026 FC 384

Ottawa, Ontario, March 23, 2026

PRESENT: The Honourable Madam Justice Ngo

BETWEEN:

SOUHEIR ABEDALHIE KTEICH
AMIRA PRINCESA ALJARAMAMI ABEDALHIE

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Abedalhie Kteich and Amira Princesa Aljaramami Abedalhie [collectively, the Applicants], seek judicial review of a decision by an officer [Officer] of Immigration, Refugees and Citizenship Canada [IRCC] dated October 9, 2024, refusing an application for permanent residence from within Canada on humanitarian and compassionate

grounds [H&C] rendered pursuant to section 25 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] [Decision].

[2] The Officer concluded that the Applicants failed to demonstrate sufficient establishment, hardship, or impact on the best interests of the child that would warrant extraordinary relief.

[3] For the reasons set out below, the application for judicial review is granted. The Decision was unreasonable in relation to the assessment of the best interests of the child [BIOC].

II. Background and Decision Under Review

[4] For clarity and simplicity, and without meaning any disrespect, I will refer to Ms. Kteich and Ms. Abedalhie individually in these reasons. Ms. Kteich is a dual citizen of Syria and Venezuela. She was born in Syria, but moved to Venezuela at the age of four, and lived there for most of her life. Her daughter, Ms. Abedalhie, is a citizen of Venezuela. On September 20, 2018, the Applicants entered Canada and submitted a refugee claim. Their refugee claim was refused by the Refugee Protection Division of the Immigration and Refugee Board [RPD] on August 27, 2021, because of a finding of a viable Internal Flight Alternative [IFA] in two cities in Venezuela. Their appeal to the Refugee Appeal Division of the Immigration and Refugee Board [RAD], was dismissed on February 1, 2022. They did not seek judicial review to the Federal Court.

[5] On September 29, 2022, the IRCC received the Applicants' H&C application for permanent residence. The Applicants submitted the Applicants' establishment in Canada, the

BIOC with respect to Ms. Abedalhie, and the hardship they would face if they were forcibly returned to Venezuela or Syria in support of their H&C application.

[6] While the Applicants made extensive submissions in their H&C application, the relevant portions in this application for judicial review relate to their submissions on administrative deferrals of removal [ADR] to both Syria and Venezuela and the BIOC.

[7] The Applicants submitted that the ADRs demonstrated ongoing humanitarian crises in both countries and the hardships they would face upon return (citing *Lauture v Canada (Citizenship and Immigration)*, 2015 FC 336 at paras 42–43). They concluded by noting the hardship of remaining in Canada without status if their H&C application is refused, given that they are prevented from returning to either country of reference as a result of the ADR. This is also related to the BIOC, as Ms. Abedalhie would be soon enrolling in post-secondary education. Her ongoing lack of status added hardship in limiting the education options available to her.

[8] In a decision dated October 9, 2024, the IRCC refused the Applicants' H&C application. In the decision, the IRCC Officer concluded that despite the Applicants' establishment in Canada, their situation is not sufficient to warrant H&C relief.

[9] The Officer noted that they may only review hardship which would not be considered under section 96 or 97(1) of the IRPA. Overall, the Officer gave the country conditions in Venezuela some positive weight. The Officer gave the economic situation in Venezuela neutral weight, as it is a generalized country condition. Given that Ms. Kteich spent most of her life in

Venezuela, her reintegration into the country would be facilitated. On medical services, the Officer gave this factor little weight, as they found insufficient evidence that a mental health illness diagnosis had been made for either of the Applicants. The Officer considered the ADR and the lack of status which the Applicant and her daughter would experience if their application were refused but responded that many in Canada are living in this situation, and their situation is not unlike that of failed refugee claimants who remain in Canada pending the determination of an appeal.

[10] After reviewing educational records and letters of support from friends and community organizations, the Officer found that the Applicants' establishment in Canada was modest and gave this factor modest weight in the assessment. The Officer found that the loss of network the Applicants would experience in returning to Venezuela are a natural consequence of moving from one country to another. Given that the Applicants have been able to move to Canada, the Officer concluded that returning to Venezuela would be a similar experience. As to the financial documents, the Officer found insufficient supporting documents demonstrating Ms. Kteich's ability to meet financial responsibilities. The Officer gave this negative weight.

[11] On the BIOC, the Officer reviewed the evidence submitted and concluded that "the weight accorded to the best interests of the child in this case is not enough to justify an exemption under subsection 25(1) of the IRPA." The Officer concluded that the cumulative balance of the factors raised did not favour the Applicants.

[12] This Decision is the subject of this application for judicial review.

III. Issues and Standard of Review

[13] The issue before the Court is whether the Officer's Decision was unreasonable, with the merits of the Decision to be reviewed on a reasonableness standard of review (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [*Vavilov*]).

[14] On judicial review, the Court must consider whether a decision bears the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision-maker misapprehended the evidence before it (*Vavilov* at paras 125–126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

IV. Analysis

[15] What warrants relief in an H&C application will vary depending on the facts and context of each case, but officers making H&C determinations must substantively consider and weigh all relevant facts and factors before them (*Toor v Canada (Citizenship and Immigration)*, 2022 FC 773 at para 16, other citations omitted).

[16] In considering an H&C application, the Officer must consider whether the facts, established by the evidence, would incite in a reasonable person in a civilized community a desire to relieve the misfortunes of another — so long as these misfortunes "warrant the granting

of special relief" from the effect of the provisions of the IRPA. The purpose of the H&C provision is to provide equitable relief in those circumstances (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at paras 13, 21 [*Kanthasamy*]). The onus of establishing that an H&C exemption is warranted lies with the applicant (Kisana v Canada (Minister of Citizenship and Immigration), 2009 FCA 189 at para 45).

[17] In assessing whether an applicant has established sufficient H&C considerations to warrant a favourable exercise of discretion, all relevant facts and factors advanced by the applicant must be considered and weighed (Kanthasamy at para 25). The words "unusual and undeserved or disproportionate hardship" should be seen as instructive, but not determinative (Kanthasamy at para 33).

[18] I am persuaded by the Applicants' argument that the Officer's reasons are not transparent or justified on the weighting and global assessment taking into account the BIOC, considered one of the more significant factors in the H&C analysis (citing *Kanthasamy*; *Uwaifo v Canada (Citizenship and Immigration)*, 2022 FC 679 [*Uwaifo*]; *De Oliveria Borges v Canada (Citizenship and Immigration)*, 2021 FC 193 [*De Oliveria Borges*]). The same applies with respect to their submissions on hardship and the ADR.

[19] With respect to the BIOC, the Officer accepted that the BIOC is a significant or primary factor (even if not determinative). The jurisprudence relied upon by the Applicants identified that for an H&C decision to be reasonable, an officer has to assign a weight to the BIOC when conducting its analysis (*Jafari v Canada (Citizenship and Immigration)*, 2022 FC 975 [*Jafari*];

Xue v Canada (Citizenship and Immigration), 2023 FC 1374 [*Xue*]; *Uwaifo*). In those cases, the Court found that an officer's failure to state how much weight is accorded to an H&C factor is a reviewable error.

[20] While an Officer may not necessarily need to use specific language, their reasons must still be clearly justified and clearly communicate the underlying rationale for the degree of weight granted to certain factors and, in turn, the underlying rationale for the decision as a whole (*Xue* at para 32, citing *Vavilov* at para 84). For a decision to be reasonable, the Court must be able to discern how the BIOC was weighed against other positive and negative elements in the H&C application (*Cerda v Canada (Citizenship and Immigration)*, 2026 FC 161).

[21] This is not the case here. The Applicants identified that every other factor in the Decision was explicitly accorded weight—except for the BIOC. It is also unclear how the BIOC was assessed with the other factors in the H&C. With respect, the conclusion in the Decision, that "I find that the weight accorded to the best interests of the child in this case is not enough to justify an exemption under subsection 25(1) of the IRPA" is not transparent or justified.

[22] A similar issue arises with the Officer's treatment of the ADR. The Officer concluded that being in Canada without status while they waited for the ADR for either Syria of Venezuela to be lifted, would not constitute a greater hardship than that which other migrants in similar or equivalent situations would face. Furthermore, the Officer concluded that the hardship that was described would be temporary and the result of moving from one country to another, and that "return to Venezuela would result in a similar experience to their arrival in Canada." However,

these conclusory statements do not reflect that the Officer meaningfully engaged with the Applicants' submissions on the ADR and hardship.

[23] A moratorium on removals "is a relevant consideration in the context of the country conditions and the assessment of hardship" (*Milad v Canada (Citizenship and Immigration)*, 2019 FC 1409 at para 36). It is unclear how (or whether) the ADR was considered or weighed in the global analysis of the H&C factors. Accordingly, this portion of the Decision also lacks transparency and justification.

[24] I appreciate that the Officer undertook a lengthy analysis of the H&C application. However, where a decision is silent as to what weight, if any, was ultimately assigned to the relevant factors raised, the decision can be found to lack transparency and justification. This makes it difficult for a reviewing court to assess whether a proper global assessment was conducted, and whether the decision is justified in relation to the relevant factual and legal constraints that bear on the decision (*Hernandez Garcia v Canada (Citizenship and Immigration)*, 2024 FC 1494 at para 19, citing *Jafari* at para 10).

[25] Based on the above, the Decision is not transparent or justified on the Officer's individual and global assessment of the BIOC and the ADR. I therefore cannot conclude that the Decision meets the hallmarks of reasonableness.

V. Conclusion

[26] The application for judicial review is granted. There is no question for certification.

JUDGMENT in IMM-19881-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.

2. There is no question for certification.

"Phuong T.V. Ngo"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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