

**Date: 20080220**

**Docket: IMM-2938-07**

**Citation: 2008 FC 231**

**Toronto, Ontario, February 20, 2008**

**PRESENT: The Honourable Mr. Justice Hughes**

**BETWEEN:**

**MONICA STREANGA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicant Monica Streanga is an adult citizen of Romania. She arrived in Canada in January 1999 and made a refugee claim which later was declared to have been abandoned. The Applicant alleges that this was due to problems that she was experiencing with an immigration consultant. Subsequently, the Applicant submitted a pre-removal risk assessment (PRRA) application in January 2007 and, with further evidence, a second application was filed on April 11, 2007. A decision against the Applicant was given by the PRRA officer by letter dated July 9, 2007. it is this decision that is under review.

[2] For the reasons that follow, I have determined that the Application is allowed.

[3] There are unusual circumstances in this case in that the Applicant sought and obtained from this court an Order staying her removal from Canada pending this review. Justice Shore in giving that Order gave extensive Reasons in which he criticized the decision of the PRRA officer and the officer's assessment as to the risk of harm and state protection available if the Applicant were to be deported to Romania (*Streanga v. Canada (MCI)*, 2007 FC 792). Justice Shore is an experienced judge in this area of the law and his decisions, even if given in an interlocutory matter, are to be given respect particularly where the decision arises from the very circumstances now before the Court.

[4] Ms. Streanga's life history is sad. She grew up in a small city in Romania as the daughter of a Hungarian mother and thus identified as Hungarian or foreigner in Romania. She had a limited high school education and was raped by a gang of thugs while pursuing that education. She and a girlfriend were lured by unscrupulous persons to work just over the border in Hungary in what they thought would be waitress jobs. Instead, they were placed in an exotic club to work as dancers and prostitutes. There was little realistic prospect of escape except back to the Romanian city where she had been molested and preyed upon in the first place. Given this background it is not surprising that the Applicant has had many personal difficulties to cope with.

[5] It appears that the Romanian police did apprehend the men who had attacked the Applicant. They were convicted and sentenced to imprisonment. They are now out of prison and at large in Romania. The evidence is that persons of this kind endeavour to recapture their former victims and seek to traffic them again or to punish them.

[6] I repeat and adopt the findings of Justice Shore 2007 FC 792 *supra*, as to the failings of the analysis conducted by the PRRA officer. He found at paragraphs 20 to 31:

[20] *In reasoning that since the Romanian state had prosecuted the men who had trafficked her in the past, this would mean that the Applicant would be able to access state protection “as she did previously”, the PRRA Officer misapprehends that even though her traffickers were eventually prosecuted and spent some time in jail, that she would not be at additional risk now from her traffickers, in that they would want to seek retribution against her for her role in their imprisonment. The PRRA Officer does not analyze this aspect of her fear in considering whether she would face a risk to her life, or risk of cruel and unusual treatment or punishment.*

[21] *It is important to note that the PRRA Officer made no credibility findings concerning the Applicant’s affidavit or the new evidence.*

[22] *The evidence before the PRRA Officer showed that other Romanian women who have escaped their traffickers are often recaptured by them when they seek refuge in women’s shelters. The Applicant has attested that she fears her former traffickers will indeed find and put her at serious risk. (Motion Record, pages 6, 18 and 141)*

[23] *No basis in the evidence exists to assume the Romanian police have developed sufficient capability and expertise to make a credible, earnest attempt to arrive in time to protect a person, such as the Applicant, from her traffickers before she is subjected to harm. (Garcia, *supra*)*

[24] *The PRRA Officer has erred in failing to recognize that while the Romanian state has made some commendable efforts in its attempt to stem human trafficking, and enacted laws to prosecute traffickers, the documentary evidence treating the scale of trafficking in women and children in Romania indicates that sample prison terms, in and of themselves, simply, are not effectively addressing the problem and protecting women in the Applicant’s position.*

[25] *When one considers the ratio of traffickers convicted—146—to the number of identified trafficking victims of 2, 250, this*

*constitutes a small proportion. This figure of trafficking victims is likely much lower than in reality, as it comprises only the victims that have been identified and counted by official statistics. Given that trafficking involves degradation and sexually based offences, the actual number of victims is much higher, with many women not reporting their abuse and ordeals to the police. (Motion Record, pages 131-132, 169 and 171)*

[26] *The Officer fails to provide any analysis of the issue of corruption in the police force, identified as rampant in several of the sources, and how this would effect the ability of the Applicant to receive on-the-ground protection, at the local level, from the individuals she fears. The DOS Report cites police corruption as being a major obstacle in effectively protecting women in the Applicant's position. The DOS Report states: "**Corruption in the police, particularly local forces, contributed to trafficking. There were frequent allegations that border police and customs agency officials accepted bribes to ignore cases of trafficking.**"*

[27] *The Officer mentions this noted serious deficiency, but then fails to provide any reasoning as to how it applies to his state protection finding. In this sense, in addition to not analyzing this evidence, the Officer's reasons are also inadequate.*

[28] *Amnesty International concludes that the law against trafficking in Romania has not led to any noticeable improvement in the serious problem of human trafficking. In reported cases, law enforcement officers failed to take effective action to protect women. Other sources note the endemic problem looms large. Although prosecutions are taking place, these do not include the "coordinators of the criminal networks". (Motion Record, pages 82, 94 and 154)*

[29] *The Officer does not address this evidence. Instead, the Officer refers to only one documentary source in his reasons, the DOS Report for Romania, quoting large sections of it. No weighing of the evidence or reference to other sources of evidence that support the Applicant's submissions about police corruption and lack of police effectiveness is mentioned by the PRRA Officer. (Motion Record, pages 169-170)*

[30] *The PRRA Officer also fails to address the Applicant's fears that:*

*Constantin is described as a **recidivist** criminal in the Romanian Court judgment, indicating that previous criminal punishment did not deter him from committing further crimes.*

*Constantin demonstrated that he was not afraid of the police in yelling out a death threat against the Applicant, at the police station, in front of police officers.*

*Constantin's men continued to visit the Applicant and her mother after she was able to escape from them. After she gave her statement to the police, they continued to look for her subsequent to her departure from Romania for Hungary, and after members of the trafficking ring were convicted on April 25, 1998.*

*The Applicant's mother has learned from a friend of the Applicant, Maia, that Constantin has returned and is living in Arad; furthermore, there is a connection to Constantin as Maia's ex-boyfriend was in jail with Constantin and is still known to him.*

*Constantin and the other men, convicted in 1998, have a new and strong reason to take issue with the Applicant and to cause her harm. (Motion Record, pages 6, 11, 17 and 32).*

[31] *This information should have been addressed in assessing state protection. At a minimum, a need exists for the matter to be considered. As no reference is made to this evidence, it appears to have been ignored. (Cepeda-Gutierrez v. Canada (MCI), [1998] F.C.J. No. 1425 (T.D.)(QL))*

[7] Justice Shore continues by citing Justice Evans in *Cepeda-Gutierrez*, [1998] F.C.J. No. 1425 (T.D.)(QL) and concludes that, at a minimum, the PRRA officer should have cited the relevant evidence and provided an explanation as to why it did not carry any weight in the determination. I make the same finding. The decision of the PRRA officer is patently unreasonable; it failed to

recite and consider relevant evidence and explain how it was dealt with in coming to the decision. Had the officer done so he would not have come to the decision that he did. The evidence is clear that the Applicant will be exposed to substantial risk if she were to be returned to Romania and there is a lack of adequate state protection. I repeat and adopt the findings of Justice Shore at paragraphs 37, 42 and 43 of his decision:

*[37] If deported to Romania, it would seem that the Applicant would suffer irreparable harm. This is due to a serious risk to her life or cruel and unusual treatment at the hands of the men who formerly trafficked her into prostitution.*

...

*[42] Given that the issue of risk to the Applicant's physical safety is at the core of the challenged PRRA decision, removal of the Applicant to Romania, now, would effectively render her application for leave and for judicial review moot, in that she would be exposed to the very risks which she argues in her PRRA would result in her not being deported to Romania. In light of the jurisprudence regarding irreparable harm, execution of a deportation order, prior to a final determination concerning her application for leave and judicial review, constitutes irreparable harm.*

*[43] The Applicant states that she would have to return to live with her mother in Arad, Romania. That is the only place she has to go, as she is not in a financial position to go anywhere else. She has learned that the former leader of the trafficking ring, Constantin, is now released and living in Arad. (Motion Record, pages 6, and 17-18)*

[8] The Application is allowed. The matter is returned to be considered by a different PRRA officer mindful of these reasons and those of Justice Shore. The parties are agreed that there is no question for certification.

**JUDGMENT**

**For the Reasons given:**

**THIS COURT ADJUDGES that:**

1. The Application is allowed;
2. The matter is returned for consideration by a different PRRA officer mindful of these reasons and those of the Court in 2007 FC 792;
3. There is no Order as to costs.

"Roger T. Hughes"

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Judge

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

**DOCKET:** IMM-2938-07

**STYLE OF CAUSE:** *MONICA STREANGA V. THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION*

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