Federal Court Cour fédérale

Date: 20141010

Docket: IMM-1886-13

Citation: 2014 FC 965

Ottawa, Ontario, October 10, 2014

PRESENT: The Honourable Madam Justice Gleason

BETWEEN:

ROBERT ATTILA MAJLAT
ROBERT ATTILANE MAJLAT
VANESSZA BALOG

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicants are Hungarian citizens of Roma ethnicity, who lived in the rural village of Miskolc in Hungary. They fled from that country in 2010 and came to Canada due to the persecution and risk they claim they face in Hungary by reason of their ethnicity. The principal male applicant, Robert Attila Majlat, is married to the adult female applicant, Robert Attilane Majlat. Vanessza Balog is Mrs. Majlat’s daughter from a previous relationship.

[2] In a decision dated February 8, 2013, the Refugee Protection Division of the Immigration and Refugee Board [the RPD or the Board] dismissed their claims, finding that the applicants failed to rebut the presumption of adequate state protection. In this application for judicial review, Mr. and Mrs. Majlat and Vanessza seek to have the RPD's decision set aside.

[3] Mr. Majlat's son from a previous relationship, Krisztian Majlat, was initially also an applicant in this matter. He left Hungary in 2012, and his refugee claim was dismissed by the RPD in its February 8, 2013 decision. Mr. Majlat discontinued his application for judicial review. The style of cause will accordingly be amended to remove his as an applicant.

[4] The Majlats recount having faced a series of attacks as well as ongoing discrimination while in Hungary. More specifically, Mr. Majlat claims to have been the victim of harassment, mistreatment, physical attacks and racist slurs. He says he was attacked three times by right-wing extremists, twice in 2009 and once in 2010, which was the event that precipitated his decision to flee to Canada. He reported only the second attack to the police. It appears to have been the most serious as he was required to seek medical attention following it. The hospital called the police, who took a statement from Mr. Majlat. He claims the police knew who the perpetrators were, but he did not hear back from them as to the results of his complaint. However, in response to questioning from the Panel member, Mr. Majlat conceded that he did nothing to follow up with the police regarding the complaint and that he had no particular concerns about their handling of the affair.

[5] Mrs. Majlat did not endure the same types of racist slurs as her husband because she is of mixed heritage and is fair-skinned. However, she claims that Hungarian health authorities (who presumably were aware of her half-Roma background) provided her sub-standard health care during Vanessza's birth and a subsequent miscarriage. She also alleges that the lack of proper treatment during the miscarriage caused her fertility problems. She admitted during her testimony, however, that she did not follow up and seek treatment in Hungary for the problems she alleges followed the miscarriage. She also claims that she and Vanessza were present during the 2010 attack by the skinheads but says they managed to run to a store and call a taxi that came quickly and allowed the family to escape.

I. The RPD's decision

[6] Although there were issues with the applicants' credibility, the RPD accepted that the events claimed had occurred and focussed its analysis on state protection. The Board determined that the applicants had not rebutted the presumption of adequate state protection, noting in this regard that because Hungary is a functioning democracy (albeit with a less than fully independent judiciary) the applicants bore the onus to show either that they sought but were unable to obtain state protection or that Hungary was unable to provide them protection. The RPD further noted that such inability on the part of the Hungarian state to protect them needed to be demonstrated by the applicants through clear and convincing evidence.

[7] In applying these principles to the facts of the applicants' cases, the RPD held that the applicants had not rebutted the presumption of adequate state protection because they had not taken all reasonable steps to seek protection while in Hungary as they did not report the third

attack, failed to follow up on the one incident that was reported to the police and did not seek redress through any of the avenues that might have been open to them for the claimed police ineptness or discriminatory treatment. The Board also noted that Mrs. Majlat did not seek follow up medical treatment after she was released from hospital after the miscarriage and did not file any complaint regarding the treatment she alleged was sub-standard.

[8] In its state protection analysis, the RPD also reviewed portions of the objective evidence in detail and found that, while mixed, the evidence pointed to adequate state protection for "Roma in Hungary who are victims of crime, police abuse, discrimination or persecution, that Hungary is making serious efforts to address these problems and to implement these measures at the operational or local level and that the police and government officials are both willing and able to protect victims" (at para 41 of the decision). In light of this, the Board determined that the applicants had not demonstrated that Hungary was not able to provide them protection and, accordingly, found that they should have pursued their local remedies before fleeing to Canada.

II. The issue and the parties' arguments

[9] The issue before the Court in this application for judicial review is whether the RPD's state protection analysis is reasonable as the applicants contest the RPD's determination of mixed fact and law regarding the applicants' failure to rebut the presumption of state protection; it is well-established that such findings regarding state protection are reviewable on the reasonableness standard (see for example: *Hinzman v Canada (Minister of Citizenship & Immigration)*, 2007 FCA 171, [2007] FCJ No 584 at para 38 [*Hinzman*]; *Horvath v Canada (Minister of Citizenship & Immigration)*, 2014 FC 313, 239 ACWS (3d) 457 [*Horvath*] at para 16;

Bustos v Canada (Minister of Citizenship & Immigration), 2014 FC 114, 237 ACWS (3d) 189 at para 29; *Hetyei v Canada (Minister of Citizenship & Immigration)*, 2013 FC 1208, 235 ACWS (3d) 1059 at para 9; *Gezgez v Canada (Minister of Citizenship & Immigration)*, 2013 FC 130, [2013] FCJ No 134 at para 9; *Kanto v Canada (Minister of Citizenship & Immigration)*, 2012 FC 1049, [2012] FCJ No 1129 at para 23).

[10] The applicants argue that the Board's decision was unreasonable for four reasons. First, they submit that the Board focused too much on Hungary's efforts and not enough on operational effectiveness. Second, they submit that the Board ignored contrary evidence regarding Hungary's ability to protect its Roma citizens and regarding Hungary's actual level of democracy. Third, they submit that the Board's finding that the applicants did not take reasonable steps to seek protection was unreasonable. Finally, they argue that the Board failed to properly consider the situation of the minor child in its analysis.

[11] The respondent disagrees, arguing that the Board's findings were reasonable in light of the facts and law. More specifically, the respondent asserts that, based on the evidence, the Board reasonably concluded that the applicants had not exhausted local remedies and therefore had not adequately rebutted the presumption of state protection. The respondent also submits that the Board did address the operational effectiveness of Hungary's state protection. It counters the applicants' contention that the Board ignored evidence by saying that the applicants placed no emphasis on this contrary evidence at the hearing and that, in any event, it was not incumbent on the Board to address all the voluminous objective evidence before it in detail. Finally, the respondent argues that the applicants did not raise any special risk to Roma children as an issue

before the RPD and therefore cannot now argue that the Board erred in its failure to address this claim in greater detail.

III. The alleged failure to address Vanessza's claim

[12] The applicants' final argument (which was made only in writing and not pursued orally at the hearing) may be dismissed at the outset as the respondent is correct in noting that the issue of any heightened risk or persecution that might be faced by Vanessza, as a Romani child, was not raised by the applicants before the Board. In this regard, Vanessza's Personal Information Form [PIF] identified Mr. Majlat's PIF as providing the basis for her claim. Thus, Vanessza's situation as a child was not the basis of her claim. Nor did counsel make any significant argument before the Board regarding any special or heightened risk that Vanessza might have faced by reasons of being a Romani child. While the issue of the impact of discrimination on Roma children was briefly mentioned in counsel's voluminous written submissions, counsel's arguments centred on the risks faced by all the Roma – both adults and children – in Hungary.

[13] In its decision, the Board did discuss issues pertaining to Roma children such as inadequate education.

[14] In my view, the Board's treatment of the risk faced by Vanessza as a Romani child was adequate in light of the evidence before the Board and in light of the arguments made by the applicants in this case, which were not premised on any particular problems that might be faced by Roma children in Hungary. Thus, the final point raised by the applicants is without merit.

IV. The reasonableness standard of review

[15] Prior to addressing the applicants' other arguments, a few comments regarding the scope of review under the reasonableness standard are warranted.

[16] At the outset, it perhaps bears repeating that the reasonableness standard, as has been stressed on numerous occasions by the Supreme Court of Canada, is a deferential one and mandates that a court adopt an attitude of restraint in reviewing decisions that fall within the expertise of a tribunal (see e.g. *Dunsmuir v New Brunswick*, 2008 SCC 9, [2008] 1 SCR 190 [*Dunsmuir*] at paras 47-49; *Khosa v Canada (Minister of Citizenship and Immigration),* 2009 SCC 12, [2009] 1 SCR 339 [*Khosa*] at para 25; *N.L.N.U. v Newfoundland & Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708 [*Newfoundland Nurses*] at paras 13-17; *Halifax (Regional Municipality) v Nova Scotia (Human Rights Commission)*, 2012 SCC 10, [2012] 1 SCR 364 at paras 44-45).

[17] Secondly, in assessing the reasonableness of a tribunal's decision, the reviewing court must have regard both to the reasoning process undertaken by the tribunal and to the result reached (see for example, *Dunsmuir* at para 47; *Khosa* at para 59; *Newfoundland Nurses* at paras 13-16; *Agraira v Canada (Minister of Public Safety and Emergency Preparedness)*, 2013 SCC 36, [2013] 2 SCR 559 at paras 51-52).

[18] In terms of the reasoning process, a tribunal's reasoning must be "transparent, justified and intelligible". In terms of result, the conclusion reached by the tribunal must be one of the

possible alternatives open to it in light of the applicable law and the facts before the tribunal (*Dunsmuir* at para 47).

[19] Third, a transparent, justified and intelligible decision is one which is understandable and which examines the key issue or issues the tribunal was required to decide. In evaluating the quality of a tribunal's reasoning process, the reviewing court must not place undue emphasis on the way in which the reasons are drafted as perfection is not required. Thus, the tribunal need not mention all the evidence or even deal with all the arguments made (provided it discharges its function and does address the issues it is statutorily mandated to decide). As the Supreme Court stated in *Construction Labour Relations v Driver Iron Inc.*, 2012 SCC 65, [2012] 3 SCR 405 ["*Driver Iron*"] at para 3:

> […] administrative tribunals do not have to consider and comment upon every issue raised by the parties in their reasons. For reviewing courts, the issue remains whether the decision, viewed as a whole in the context of the record, is reasonable […]

[20] The Federal Court of Appeal has similarly indicated that administrative decision-makers need not address every argument made by the parties so long as they decide the issues they are statutorily-mandated to decide (see e.g. *Turner v Canada (Attorney General)*, 2012 FCA 159, [2012] FCJ No 666 at paras 40-45; *Lemus v Canada (Minister of Citizenship and Immigration)*, 2014 FCA 114, [2014] FCJ No 439 [*Lemus*] at paras 24-26).

[21] That said, if an applicant can demonstrate that the tribunal failed to consider a key piece of evidence, such failure may render the decision unreasonable. In *Cepeda-Gutierrez v Canada (MCI)*, [1998] FCJ No 1425, 83 ACWS (3d) 264 [*Cepeda-Gutierrez*], Justice Evans held that

where the RPD fails to mention evidence that is critical and the evidence contradicts the Board's conclusion, a reviewing court *may* decide that its omission means that the tribunal did not have regard to the material before it, thereby running afoul of subsection 18.1(4) of the *Federal Courts Act*, RSC, 1985, c. F-7.

[22] Thus, a tribunal's reasoning will be adequate if, in reading the decision, one is able to ascertain how the tribunal arrived at its conclusion and if the steps in the reasoning process find support in the record before the tribunal and in the applicable law it was required to apply.

[23] Fourth, in terms of result, where the issue in question requires an evaluation that falls squarely within the expertise of the tribunal, it will be rare that the reviewing court will set aside the decision based solely on its disagreement with the result reached. Provided the tribunal does not make a reviewable error in selecting the legal principles it is applying and provided there is support in the record for the result reached, then, in my view, the reviewing court should be hesitant to interfere with the result. Indeed, as Justices LeBel and Bastarache noted at para 47 of *Dunsmuir*, review of the tribunal's reasoning process is more the focus of a reasonableness review than review of the result reached. (See also to similar effect *Public Service Alliance of Canada v Canadian Federal Pilots Assn.*, 2009 FCA 223, [2010] 3 FCR 219, at para 63).

[24] Thus, under the reasonableness standard, the issue is neither whether the court would have reached the same conclusion as the tribunal nor whether the conclusion the tribunal made is correct. Rather, deference requires that tribunals such as the RPD be afforded latitude to make decisions and to have their decisions upheld by the courts where their decisions are

understandable, rational and reach one of the possible outcomes one could envisage legitimately being reached on the applicable facts and law.

[25] This is particularly so when the case involves a matter falling within the core specialized expertise of the tribunal, as does the assessment of state protection by the RPD. As I stated at para 5 in *Arias v Canada (Minister of Citizenship and Immigration)*, 2012 FC 322, [2012] FCJ No 1105, "[t] he Board is to be afforded considerable deference in respect of its … conclusions regarding state protection [which]…fall within the core of the Board's expertise and are intimately tied to the facts of a particular case".

V. Is the decision unreasonable through the Board's failure to consider evidence?

[26] Bearing the foregoing principles in mind, I turn now to the claim that the RPD ignored evidence regarding the allegation that Hungary is not a democracy, thereby rendering its decision unreasonable. It makes logical sense to review this assertion first as the RPD's determination that Hungary is a democracy underpins its application of the presumption of adequate state protection, as was noted in *Canada (Attorney General) v Ward*, [1993] 2 SCR 689, [1993] SCJ No 74 [*Ward*] at para 51 and *Hinzman* at paras 44-46.

[27] On this point, the applicants argue that the RPD misread the 2011 United States Department of State Report on Human Rights Practice for Hungary [the 2011 U.S. DOS. Report]. They note that the 2011 U.S. DOS Report indicates that the Hungarian government recently adopted legislation, including a new Fundamental Law, which curtails certain important

rights such as freedom of the press. The applicants argue that these legislative changes mean that Hungary is no longer a functioning democracy and that the RPD reached an unreasonable conclusion in holding otherwise.

[28] I disagree and, with respect, believe that it is rather the applicants who have misread the 2011 U.S. DOS Report. That Report clearly states that Hungary is a democracy and, indeed, opens with the following sentence: "Hungary is a multi-party parliamentary democracy". The Report also notes that the country's most recent elections were free and fair, and describes the legislative changes that the applicants impugn as merely having the *potential* to "undermine the country's democratic institutions by removing key checks and balances".

[29] It is therefore not a misreading of the 2011 U.S. DOS Report to hold that the Report demonstrates that Hungary is a functioning democracy and, accordingly, the RPD's conclusion on this point is reasonable. The Board therefore did not err in holding that the presumption of adequate state protection applies to Hungary in accordance with *Ward* and *Hinzman*.

[30] The applicants next argue that the RPD ignored large portions of the documentary evidence, which they claim establish that the Hungarian state is incapable of providing adequate protection to its Roma minority. They point in this regard to several places in the evidence which they allege show the inability or unwillingness of the Hungarian police to investigate racially-motivated crimes against the Roma and the absence of an effective remedy open to the Roma to address the non-responsiveness of the Hungarian police.

[31] Once again, I disagree with the applicants. Contrary to ignoring the evidence that shows there are problems with the Hungarian state's treatment of the Roma and the ineffectiveness of the police in responding to racially-motivated crimes, the decision references such evidence at several points. For example, the Board recognized that:

- Hungary has a history of discrimination against Roma people and that Roma people have limited access to education, employment, health care, and social services (at para 19 of the RPD's decision);

- Conditions for the Roma, racial discrimination and xenophobia in Hungarian society have deteriorated recently (at para 20 of the RPD's decision);

- The objective documentation contains widespread reporting of incidents of intolerance, discrimination and persecution of Roma people in Hungary, including excessive use of force by the police (at para 22 of the RPD's decision);

- Roma people can face discrimination and violence at the hands of some people in authority (at paras 22-23 of the RPD's decision); and

- A fair reading of the documentary evidence shows that outlawed, right-wing extremist groups continue to incite violence against Roma (at para 39 of the decision).

[32] Thus, I do not believe that the RPD ignored evidence in the manner the applicants assert. I also note in any event that it is not necessary for the Board to cite from every report contained in the thousands of pages of objective documentary evidence that was before it as was held in *Driver Iron* at para 3, *Newfoundland Nurses* at para 16, *Cepeda-Gutierrez* at para 16 and *Kakurova v Canada (Minister of Citizenship and Immigration)*, 2013 FC 929, [2013] FCJ No 1026 at para 18.

[33] In short, the RPD's decision in this case demonstrates that the Board was alive to the evidence which showed that there are problems with the Hungarian state's treatment of the Roma and which spoke to the ineffectiveness of the police in responding to racially-motivated crimes. The applicants thus have not demonstrated that the RPD erred in ignoring relevant evidence.

VI. Is the decision unreasonable because the RPD applied the wrong test for assessing the adequacy of state protection?

[34] I turn next to the applicants' assertion that the RPD erred in focussing on the efforts made by the Hungarian state to address the problems of the Roma minority as opposed to the efficacy of those efforts. The applicants argue that this Court has often set aside decisions where the Board focussed on the efforts made by a state as opposed to the efficacy of those efforts. They point in this regard to *Orgona v Canada (Minister of Citizenship and Immigration)*, 2012 FC 1438, [2012] FCJ No 1545 [*Orgona*] at para 11, *Garcia v Canada (Minister of Citizenship and Immigration)*, 2007 FC 79, [2007] FCJ No 118 [*Garcia*] at para 14, *Bors v Canada (Minister of Citizenship and Immigration)*, 2010 FC 1004, [2010] FCJ No 1242 [*Bors*] at para 63 and *Kovacs*

v Canada (Minister of Citizenship and Immigration), 2010 FC 1003, [2010] FCJ No 1241 [*Kovacs*] at para 70.

[35] The applicants have correctly characterized the foregoing authorities and I agree with them that at certain points in the decision the Board does use language that speaks of the efforts made by the Hungarian state to remedy the situation of the Roma. For example at para 41 of the RPD decision, the panel stated: "…the objective evidence regarding current country conditions suggests that… Hungary is making serious efforts to address these problems and to implement these measures at the operational or local level and that the police and government officials are both willing and able to protect victims."

[36] However, despite the use of language that speaks to efforts made by the Hungarian state, the RPD did not focus its state protection analysis in this case only on the mere fact that efforts had been made. Rather, when the decision is read carefully, it is apparent that it turns on the fact that the applicants failed to make a complaint to the police in 2010, failed to follow up on the 2009 complaint and did not make any complaints about the alleged sub-standard medical treatment. The RPD held that in light of these failures the applicants had not rebutted the presumption of adequate state protection because the documentary evidence, while mixed, does not establish that the Hungarian state would have been unable to address their complaints. This is made clear from the following passages in the decision:

- At para 36, the panel refers to police investigations into attacks against Roma and finds that there is evidence that the police investigated the incidents, demonstrating in each case, "state protection at the operational level";

- The panel stated at para 39 that it is "apparent…that both the government and numerous human rights NGOs are cognizant and watching closely to ensure that the rights of all ethnic, racial or religious minorities are being monitored and failure by officials to respond is being exposed as misconduct or abuse and being reported" ; and

- The panel noted at paras 44 and 46 that there is recourse available to Roma claimants if they are not satisfied with the police response at first instance: victims of police abuses may complain to the alleged violator's unit, the Commissioner of Fundamental Rights, or to the Independent Police Complaints Board [IPCB], which investigates violations and omissions by the police, makes recommendations to the National Police Headquarters and reports its findings to parliament. Alternatively, it noted at para 53, they may seek compensation through the court system.

[37] Thus, unlike the cases of *Orgona*, *Garcia*, *Bors*, and *Kovacs*, the RPD here did not assess only whether the Hungarian state was making efforts to correct the plight of the Roma. Rather, it reviewed both those efforts and the adequacy of those efforts and accordingly did not apply the wrong test. Thus, this argument likewise fails.

VII. Did the RPD err in finding that the applicants failed to rebut the presumption of adequate state protection?

[38] I turn finally to assessment of whether the Board committed a reviewable error in its determination that the applicants did not rebut the presumption of adequate state protection because they did not complain about the treatment they received from the police and the Hungarian medical authorities prior to fleeing Canada and did not report the final attack to the police. The applicants argue that both the Board's reasoning and its conclusion on this point are unreasonable.

[39] In terms of the reasoning, the applicants make two arguments. First, they assert that the Board's reliance on certain pieces of evidence as tending to show that the Hungarian state could offer protection was unreasonable because such reliance on some of the evidence has already been found to be unreasonable by this Court and because the other evidence the Board relied on does not support its conclusion. Secondly, the applicants argue that the decision is deficient as it fails to explain how state protection might be available for the Roma and as it leaps from a litany of problems in Hungary to the conclusion that there is adequate state protection without any explanation.

[40] As concerns the result reached, the applicants argue that the only reasonable conclusion one could reach is that state protection is unavailable for the Roma in Hungary given the tenor of the vast majority of the evidence, which shows that the police cannot or do not adequately protect the Roma from racially-motivated violence perpetrated by extremists in Hungary. They also assert that the fact that the violence visited on the Roma is typically of a random nature,

perpetrated by unidentified racists, makes the requirement that the crimes be reported to the police unreasonable as was held in *Muntyan v Canada (Minister of Citizenship and Immigration)*, 2013 FC 422, [2013] FCJ No 448 [*Muntyan*] at para 9 and *Majoros v Canada (Minister of Citizenship and Immigration)*, 2013 FC 421, [2013] FCJ No 447, [*Majoros*] at para 16.

[41] Turning to the first of these arguments, concerning the alleged erroneous reliance on certain pieces of evidence, the applicants more specifically say that in *Orgona* Justice Zinn held that it was unreasonable for the RPD to have relied on evidence regarding the IPCB, the results in the prosecutions of the perpetrators of nine high-profile crimes against the Roma and the recent changes to the Hungarian criminal law as demonstrating the adequacy of state protection for the Roma in Hungary. They say that the Board's reliance on the same evidence in this case is likewise unreasonable. The applicants also argue that the Board's reliance on the Commissioner of Fundamental Rights and the Equal Treatment Authority [ETA] as potential avenues to redress discrimination complaints is unreasonable because the evidence demonstrates that neither is effective.

[42] I disagree regarding the applicants' characterization of the effectiveness of the Commissioner of Fundamental Rights and the ETA. The former, while lacking the power to impose sanctions, is reported in the *Response to Information Request* number HUN103826.E 12 October 2011 at pp. 5-6 as possessing the ability to initiate complaints and conduct mediations to settle complaints as well as having the obligation to institute prosecutions when a crime is found to have been committed. None of these avenues of redress can necessarily be said to be

ineffective. Likewise, according to the Response to Information Request HUN103826.E 12 October 2011 at p 7, the ETA may order the elimination of a discriminatory situation, prohibit recurrence of discrimination and impose fines. Such jurisdiction appears to be similar to the roles assigned to human rights tribunals in Canada and, thus, cannot necessarily be said to be ineffective. I therefore believe that the Board did not err in pointing to the Commissioner of Fundamental Rights and the ETA as possible avenues to redress discrimination faced by the Roma in Hungary.

[43] In addition to reliance on the Commissioner of Fundamental Rights, the ETA and the impugned pieces of evidence that were criticized in *Orgona*, the RPD also relied on other points in the country documentation as tending to establish the availability of redress for Roma victims in Hungary. For example, it noted at para 44 that the state takes action in response to complaints of police corruption and the use of excessive force and cited the fact that in a nine-month period the authorities had found 3,022 police officers responsible for breaches of discipline, 766 guilty of petty offences, 283 guilty of criminal offences and 10 unfit for duty and that in that same period Hungarian courts sentenced four police officers to prison terms, gave suspended sentences to 39, fined 106, and dismissed 12, while 37 other officers were convicted of corruption. In addition, the panel noted (at paras 51 and 53) that Roma victims could seek redress by seeking compensation through the courts and that free legal aid is provided by the Ministry of Public Administration to Roma who have experienced ethnic discrimination.

[44] Thus, even if the RPD's reliance on the three pieces of evidence criticized in *Orgona* was unreasonable, there were other items it relied on to support its conclusion that it would not have been futile for the applicants to seek protection from local authorities before fleeing Hungary.

[45] Nor can the reasoning of the Board be faulted, particularly in light of the deference which I am bound to afford its decision. While not perfect, the reasons do demonstrate that the Board was alive to the fact that much of the documentary evidence indicated there were real problems with discrimination and racially-motivated violence against the Roma in Hungary and that there was mixed evidence regarding the ability of the state to provide protection. Some evidence tending to show the ability of the authorities to redress the situation was cited in the decision. Thus, in my view, the decision in this case meets the test of transparency and intelligibility required for a reasonable decision because in considering it as a whole, one can understand how the Board reached its conclusion and there is some evidence to support the conclusion.

[46] Finally, in terms of the conclusion reached, having reviewed the documentary evidence as well as the recent case law of this Court in Hungarian Roma cases, I cannot conclude that the outcome reached by the RPD was unreasonable. The legal presumption of state protection requires the applicants to prove that state protection was unavailable. In my view, it was reasonable in this case for the RPD to determine that the applicants failed to discharge that burden. As I recently stated in *Horvath* at para 22:

> […] I disagree with the applicant that the objective documentation in the national documentation package for Hungary must necessarily mandate a conclusion that the Roma will face persecution in Hungary or that there is not adequate state protection for them. In my view, the documentation does not paint such a dire picture so as to render all opposite conclusions

> unreasonable. Indeed, several recent decision of this Court have upheld determinations like that made in the present case, dismissing asylum claims of Hungarian Roma due to the claimants' failure to rebut the presumption of adequate state protection (see e.g. *Radics v. Canada (Minister of Citizenship and Immigration)*, 2014 FC 110*; Hetyei; Ruszo v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 1004; *Paradi; Konya v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 975; *Riczu v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 888; *Buzas v. Canada (Minister of Citizenship and Immigration)* (2013), 234 A.C.W.S. (3d) 1006*; Racz v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 702; *Kotai v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 693; *Olah v. Canada (Minister of Citizenship and Immigration)*, 2013 FC 106).

[47] Moreover, here, unlike in *Majoros* and *Muntyan*, it was not unreasonable to expect the applicants to have made a complaint to the police about the final attack that precipitated their flight as they were from a village and there was some suggestion from Mr. Majlat that the police knew who the violent skinheads were in his village who perpetrated at least the attack in 2009. Thus, a conclusion that they ought to have reported the attack that followed the next year is defensible as it would not necessarily have been pointless to have made a report, even if the Majlats could not provide a detailed description of the attackers. In addition, Mrs. Majlat, herself, conceded that she did not do all she should have done to seek additional medical treatment in Hungary. Thus, here, as well, the determination that she had not rebutted the presumption of adequate state protection was reasonable.

[48] Therefore, I believe that the Board conducted its analysis in a reasonable way in this case and reached a defensible conclusion. Its decision must therefore be maintained under the deferential reasonableness standard. As my colleague, Justice Russell, noted at para 105 in another Hungarian Roma case, *Molnar v Canada (Minister of Citizenship and Immigration)*,

2012 FC 530, [2012] FCJ No 551, "it is not for this Court to interfere even if I might come to a different conclusion myself".

[49] This application for judicial review will accordingly be dismissed. Neither party proposed a question for certification under section 74 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the IRPA] and none arises in this case.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. This application for judicial review of the RPD's February 8, 2013 decision is dismissed;

2. No question of general importance is certified under section 74 of the IRPA;

3. There is no order as to costs; and

4. The style of cause is amended to remove Krisztian Majlat as an applicant.

"Mary J.L. Gleason"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-1886-13
STYLE OF CAUSE:	KRISZTIAN MAJLAT, ROBERT ATTILA MAJLAT, ROBERT ATTILANE MAJLAT, VANESSZA BALOG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MAY 15, 2014
JUDGMENT AND REASONS:	GLEASON J.
DATED:	OCTOBER 10, 2014

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