Federal Court  Cour fédérale

Date: 20200327

Docket: IMM-5124-19

Citation: 2020 FC 425

Ottawa, Ontario, March 27, 2020

PRESENT: Mr. Justice Gascon

BETWEEN:

HUILI CHEN

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Huili Chen, seeks judicial review of a deportation order [Deportation Order] issued against her in August 2019 by an officer [Officer] of the Canada Border Services Agency [CBSA]. Acting as a delegate of the Minister of Public Safety and Emergency Preparedness [Minister], the Officer found that Ms. Chen was inadmissible to Canada because

she was accompanying her husband, who had himself been previously found to be inadmissible to Canada due to crimes against humanity.

[2] Ms. Chen argues that the Deportation Order is invalid and should be quashed by the Court for several reasons. She claims that the Officer was merely an “acting” hearings advisor and was not a person vested with the authority to issue a deportation order. Ms. Chen further submits that, in the Deportation Order, the Officer referred to a non-existent provision of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA], namely subsection “42(a)” of the IRPA. Ms. Chen also argues that she was entitled to an admissibility hearing, either as of right or due to a legitimate expectation created by a previous letter from the CBSA saying that she would have such an admissibility hearing.

[3] Ms. Chen asks this Court to allow her application for judicial review and to return the matter to the Minister for a new determination by a different CBSA officer.

[4] Having considered the evidence before the Officer and the applicable law, I can find no basis for overturning the Deportation Order. As an “acting” hearings advisor, the Officer clearly had the authority to issue the order under the IRPA. In addition, when read as a whole, the Deportation Order undoubtedly referred to the correct provision of the IRPA, namely paragraph 42(1)(a). The decision is based on an internally coherent and rational chain of analysis and it is amply justified in relation to the facts and law that constrain the Officer. Furthermore, neither the applicable law nor the doctrine of legitimate expectations entitled Ms. Chen to an admissibility

hearing in the present circumstances. There are strictly no grounds for the Court to intervene and I must therefore dismiss Ms. Chen's application for judicial review.

II. Background

A. *The factual context*

[5] Ms. Chen and her husband are Chinese citizens. They have two daughters who have been studying in Canada since 2014. On April 15, 2014, Ms. Chen was issued a Canadian temporary resident visa, pursuant to which she has visited Canada several times. This visa is scheduled to expire on June 9, 2020.

[6] On April 21, 2019, Ms. Chen flew from Shanghai to Vancouver with her husband. Her husband was applying for a temporary work permit under the Saskatchewan Provincial Nominee Program. Meanwhile, Ms. Chen applied for a spousal work permit. At the airport, the Canadian immigration authorities noticed that Ms. Chen had failed to disclose an earlier refusal of entry into Canada dating back to December 2014. At the time, Ms. Chen had been refused entry because she was attempting to facilitate the entry of another individual into Canada. However, this misrepresentation was not the Canadian authorities' only concern. Ms. Chen's husband had served as an armed guard at a notorious Chinese prison from 1983 to 1985, and the CBSA was concerned that he had committed crimes against humanity during his tenure.

[7] After interviewing Ms. Chen and her husband, the CBSA referred Ms. Chen to an admissibility hearing. In the report, the Minister's delegate made two findings of inadmissibility.

First, Ms. Chen was found inadmissible for misrepresentation under paragraph 40(1)(a) of the IRPA, due to her failure to disclose the 2014 refusal of entry. Second, because her husband was inadmissible for crimes against humanity under paragraph 35(1)(a), Ms. Chen was deemed to be an inadmissible family member under subsection "42(a)" of the IRPA [*sic*].

[8] In July 2019, the CBSA issued a deportation order against Ms. Chen's husband for crimes against humanity. Her husband filed for judicial review of his deportation order while Ms. Chen continued to await further information on her own potential inadmissibility. In November 2019, the Court dismissed the husband's application for leave to commence judicial review, at the leave stage.

B. *The Decision*

[9] On August 7, 2019, the Officer issued a report pursuant to subsection 44(1) of the IRPA, finding Ms. Chen to be inadmissible under "subsection 42(a)" because her accompanying family member was inadmissible.

[10] The Officer then interviewed Ms. Chen. During the interview, Ms. Chen acknowledged that she had entered Canada in April 2019 along with her husband. Her counsel attended the interview and argued that the reference to "subsection 42(a)" was an error because the IRPA contains no such provision. The Officer explained that it was merely a typographical error in the CBSA system, and clarified that the relevant provision was paragraph 42(1)(a) of the IRPA. Ms. Chen then expressed concern about her ability to return to Canada, while her counsel suggested that the Officer was abusing his power by refusing to work with Ms. Chen.

[11] Following the interview, the Officer issued the Deportation Order. The Officer was satisfied, on a balance of probabilities, that Ms. Chen was inadmissible on grounds of an inadmissible family member because her accompanying family member (i.e., her husband) was himself inadmissible under paragraph 35(1)(a) of the IRPA for crimes against humanity. The Deportation Order meant that Ms. Chen would be unable to return to Canada without written approval by the Minister pursuant to subsection 226(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [Regulations].

[12] After the Deportation Order was issued, the CBSA withdrew the separate misrepresentation allegation made against Ms. Chen under paragraph 40(1)(a) of the IRPA, which would have entitled Ms. Chen to an admissibility hearing.

C. *The standard of review*

[13] Ms. Chen submits that the four grounds she raises to impeach the Deportation Order call for the application of the correctness standard in this judicial review. She says that the question of delegation is a matter of jurisdiction or a question of law. She makes a similar argument regarding her claim that a deportation order relying on a non-existent provision of the IRPA is invalid. Finally, Ms. Chen argues that her entitlement to an admissibility hearing either as of right or due to a legitimate expectation created by an earlier letter from the CBSA raises procedural fairness issues, also subject to a correctness standard.

[14] I do not agree with Ms. Chen’s submissions on the standard of review.

[15] In *Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], the Supreme Court of Canada set out a revised framework for determining the standard of review with respect to the merits of administrative decisions (*Vavilov* at para 10). In that decision, the majority of the Court articulated a new approach to determining the applicable standard of review, holding that administrative decisions should presumptively be reviewed on a standard of reasonableness, unless either the legislative intent or the rule of law requires that the standard of correctness be applied (*Vavilov* at paras 10, 17).

[16] In *Vavilov*, the Supreme Court clearly established that the rule of law will only call for the standard of correctness in exceptional situations confined to certain precise categories of questions. This will be the case for constitutional questions, for general questions of law of central importance to the legal system as a whole, and for questions related to the jurisdictional boundaries between two or more administrative bodies (*Vavilov* at paras 58-62). In the present case, Ms. Chen argues that some of the issues she raises to fault the Deportation Order fit within the category of "general questions of law of central importance to the legal system as a whole". I disagree. This exception has been made for questions of law requiring uniform and consistent answers because of their impact on the administration of justice (*Vavilov* at para 58). However, the mere fact that a dispute may be of "wider public concern" is not sufficient. As the Supreme Court indicated, this category should not be transformed into a broad catch-all exception (*Vavilov* at para 61). In fact, the case law has revealed many examples of questions which have not been considered as general questions of law of central importance to the legal system. The issues of the delegated authority of the Officer or of a typographical error in a deportation order clearly do not belong in the category of general questions of law of central importance to the

legal system as a whole. These are instead specific issues that simply affected Ms. Chen in this particular case. The mere fact that questions can be important to the parties involved is insufficient to overturn the presumption of reasonableness review.

[17] As to Ms. Chen's claim that the question of delegation is a matter of jurisdiction calling for the correctness standard, the Supreme Court has expressly closed the door on this point and stated that jurisdictional questions are no longer recognized as a distinct category attracting correctness review (*Vavilov* at para 65; *Bank of Montreal v Li*, 2020 FCA 22 at para 31).

[18] For those reasons, I am satisfied that none of the exceptions requiring the standard of correctness apply in the present case, and that there is no basis for derogating from the presumption that reasonableness is the applicable standard of review for the Officer's Deportation Order.

[19] Regarding the actual content of the reasonableness standard, the *Vavilov* framework does not represent a marked departure from the Supreme Court's previous approach, as set out in *Dunsmuir v New Brunswick*, 2008 SCC 9 [*Dunsmuir*] and its progeny, which was based on the "hallmarks of reasonableness", namely justification, transparency and intelligibility (*Vavilov* at para 99). The reviewing court must consider "the decision actually made by the decision maker, including both the decision maker's reasoning process and the outcome", to determine whether the decision is "based on an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at paras 83, 85; *Canada Post Corp. v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post*] at paras 2, 31).

[20] Turning to the issues of procedural fairness, the approach to be taken has not changed following *Vavilov* (*Vavilov* at para 23). It has typically been held that correctness is the applicable standard of review for determining whether a decision maker complies with the duty of procedural fairness and the principles of fundamental justice (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 [*Khosa*] at para 43). However, the Federal Court of Appeal has recently affirmed that questions of procedural fairness are not truly decided according to any particular standard of review. Rather, it is a legal question to be answered by the reviewing court, and the court must be satisfied that the procedure was fair having regard to all of the circumstances (*Lipskaia v Canada (Attorney General)*, 2019 FCA 267 at para 14; *Canadian Airport Workers Union v International Association of Machinists and Aerospace Workers*, 2019 FCA 263 at paras 24-25; *Perez v Hull*, 2019 FCA 238 at para 18; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*CPR*] at para 54).

[21] Therefore, the ultimate question raised when procedural fairness and alleged breaches of fundamental justice are the object of an application for judicial review is whether, taking into account the particular context and circumstances at issue, the process followed by the administrative decision maker was fair and offered the affected parties a right to be heard as well as a full and fair opportunity to know and respond to the case against them (*CPR* at para 56; *Huang v Canada (Citizenship and Immigration)*, 2018 FC 940 at paras 51-54). No deference is owed to the decision maker on issues of procedural fairness.

III. Analysis

A. *The Officer had the authority to issue the Deportation Order*

[22] Ms. Chen first claims that the Officer was not duly authorized to issue the Deportation Order and that, given this lack of authority, the order against her is void. She cites subsection 6(2) of the IRPA which allows the Minister to delegate powers, and argues that the Minister never delegated powers to the Officer, since he was merely an "acting" hearings advisor. Ms. Chen further pleads that the Minister's instrument of delegation to the CBSA prescribes that a "hearings advisor" is a category of CBSA employees who have the authority to issue a deportation order. Relying on *Canada (Citizenship and Immigration) v Tian*, 2018 FC 65, *Zhang v Canada (Citizenship and Immigration)*, 2014 FC 362, *Wong v Canada (Citizenship and Immigration)*, 2011 FC 971 [*Wong*] and *Deng v Canada (Citizenship and Immigration)*, 2008 FC 603, Ms. Chen submits that an "acting" hearings advisor is not the same as an ordinary hearings advisor. She further asserts that these cases show a problematic pattern of wrongful delegation of powers to CBSA employees in Vancouver.

[23] I disagree with Ms. Chen's submissions.

[24] First, I observe that none of the authorities cited by Ms. Chen stands for the proposition that an "acting" hearings advisor is not vested with the same authority as an ordinary hearings advisor. At the hearing before the Court, counsel for Ms. Chen was asked to identify any case law referring precisely to this issue of "acting" hearings advisors having less authority than regular hearings advisors. He could not cite any, and the Court is not aware of any precedent

establishing that “acting” administrative decision makers would somehow have less delegated authority than regularly-appointed decision makers.

[25] Second, nothing in the IRPA or in the Regulations limits the authority of an officer who is effectively acting in the position for which he or she is employed and who is exercising the functions devolved to him or her. Section 6 of the IRPA sets outs the general delegation authority under this legislation and reads as follows:

Designation of officers	**Désignation des agents**
6 (1) The Minister may designate any persons or class of persons as officers to carry out any purpose of any provision of this Act, and shall specify the powers and duties of the officers so designated.	**6 (1)** Le ministre désigne, individuellement ou par catégorie, les personnes qu’il charge, à titre d’agent, de l’application de tout ou partie des dispositions de la présente loi et précise les attributions attachées à leurs fonctions.
Delegation of power	**Délégation**
6(2) Anything that may be done by the Minister under this Act may be done by a person that the Minister authorizes in writing, without proof of the authenticity of the authorization.	**6 (2)** Le ministre peut déléguer, par écrit, les attributions qui lui sont conférées par la présente loi et il n’est pas nécessaire de prouver l’authenticité de la délégation.

[26] This provision clearly establishes that nothing turns on the distinction between “acting” officers as opposed to ordinary or regularly-appointed officers. The delegation is attached to the functions accomplished by the person, not to the person as such. A person officially acting in a position – even for a short period – is authorized to exercise the powers related to that position. As stated by the Minister, the authority to issue deportations orders attaches to the position and

the functions actually exercised by the hearings advisors, not to the individual. Nothing in the legislation or the regulations prevents "acting" hearings advisors from issuing deportation orders, and nothing turns on the distinction between "acting" hearings advisors and regular, ordinary hearings advisors.

[27] Moreover, as rightly argued by the Minister, the Delegation of Authority and Designation of Officers by the Minister under the IRPA and the Regulations issued by the Minister and referred to by Ms. Chen in her submissions [Delegation Instrument] concerns job classifications. Echoing the language of subsection 6(2) of the IRPA, this Delegation Instrument expressly refers to "a person authorized to exercise the powers or perform the duties and functions of that position". In other words, a person who is officially acting in a position (whether for one day or one year) is a person duly authorized to exercise the powers or perform the duties of that position.

[28] I pause to note that this is not a situation like in *Wong* where two different officers had been involved in the decision making process (*Wong* at para 23).

B. ***The Deportation Order is not invalid because it refers to a "subsection 42(a)" which does not exist***

[29] Ms. Chen argues that the reference to "[s]ubsection 42(a)" of the IRPA on the Deportation Order makes the order invalid because this provision does not exist. She says it is important to know whether the Minister was referring to paragraph 42(1)(a) or to other provisions such as paragraph 42(1)(b) as there is a material difference between the two

provisions (i.e., the latter provides a right of referral to an admissibility hearing). She suggests that deportation orders require a high degree of precision and cannot refer to a legal provision that does not exist. Ms. Chen was not satisfied with the Officer's explanation at the interview, who stated that this was a computer-generated error which could not be corrected. She claims that this erroneous reference has the effect of tainting the whole process and renders the Officer's decision indefensible in law. She submits that applicants should have the benefit of the doubt and that all requirements must be met for a deportation order to be valid (*Canada (Minister of Public Safety and Emergency Preparedness) v Cha*, 2006 FCA 126 at para 34). Ms. Chen further adds that, in any event, she was not "accompanying" her husband on his temporary work permit application even though they entered Canada together in April 2019, because she already possessed a Canadian visa at the time.

[30] I find that Ms. Chen's arguments are totally without merit.

[31] By focusing as she does on the reference to "[s]ubsection 42(a)" in the Deportation Order, Ms. Chen essentially ignores what the Officer's decision actually says. It is trite law that, on judicial review, the administrative decision is to be considered as a whole and in its entirety. In the case of Ms. Chen, the Deportation Order expressly states that Ms. Chen is an inadmissible person in that "on a balance of probabilities, there are grounds to believe [she] is a foreign national, other than a protected person, who <u>is inadmissible on grounds of an inadmissible family member if their accompanying family member is inadmissible</u>" [emphasis added]. This language repeats, *verbatim*, the language of paragraph 42(1)(a), which is expressly distinct from the language of paragraph 42(1)(b). These two provisions read as follows:

Inadmissible family member	**Inadmissibilité familiale**
42 (1) A foreign national, other than a protected person, is inadmissible on grounds of an inadmissible family member if	**42 (1)** Emportent, sauf pour le résident permanent ou une personne protégée, interdiction de territoire pour inadmissibilité familiale les faits suivants :
(a) their accompanying family member or, in prescribed circumstances, their non-accompanying family member is inadmissible; or	**a)** l'interdiction de territoire frappant tout membre de sa famille qui l'accompagne ou qui, dans les cas réglementaires, ne l'accompagne pas;
(b) they are an accompanying family member of an inadmissible person.	**b)** accompagner, pour un membre de sa famille, un interdit de territoire.

[32] Therefore, it is clear from the reasons of the Deportation Order that the order relates explicitly to paragraph 42(1)(a), notwithstanding the "[s]ubsection 42(a)" typographical error singled out by Ms. Chen. In other words, Ms. Chen could not seriously claim she was not aware of the grounds on which the Deportation Order was issued against her. Furthermore, this system-generated error was explicitly corrected and explained by the Officer during the interview with Ms. Chen, as the Officer clarified that the relevant provision was paragraph 42(1)(a) of the IRPA. There is therefore no doubt whatsoever that Ms. Chen knew and was well informed of the specific provision and legal grounds that made her inadmissible in Canada.

[33] 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" (*Vavilov* at para 85; *Canada Post* at paras 2, 31). *Vavilov*'s revised framework for reasonableness requires the reviewing court to take a "reasons first" approach to judicial review (*Canada Post* at

para 26). Where a decision maker has provided reasons, the reviewing court must begin its inquiry into the reasonableness of the decision "by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion" (*Vavilov* at para 84). The reasons must be read in light of the record as a whole and with due sensitivity to the administrative setting in which they were given (*Vavilov* at paras 91-94). Here, it is obvious that the Deportation Order explained the conclusions reached by the Officer in a transparent and intelligible manner (*Vavilov* at paras 81, 136; *Canada Post* at paras 28-29; *Dunsmuir* at para 48), and that the reasons allow any reader to fully understand the basis on which the Deportation Order was made.

[34] I should add that the written reasons given by an administrative body must not be assessed against a standard of perfection (*Vavilov* at para 91). Reasons for an administrative decision maker's decision do not need to be comprehensive or perfect. They only need to be comprehensible and justified. Reasons are to be read as a whole, in conjunction with the record (*Vavilov* at paras 102-103; *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 [*Agraira*] at para 53; *Construction Labour Relations v Driver Iron Inc*, 2012 SCC 65 at para 3). On judicial review, a reviewing court is not to endeavour into a "line-by-line treasure hunt for error" and must instead approach the reasons and outcome of a tribunal's decision as an "organic whole" (*Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 at para 138; *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp & Paper, Ltd*, 2013 SCC 34 at para 54). When such an approach is espoused, there can be no doubt that the Deportation Order was not unreasonable.

C. ***Ms. Chen did not have a right to an admissibility hearing***

[35] Ms. Chen further argues that she had a right to an admissibility hearing, claiming that there is a significant difference between a 42(1)(a) case and a 42(1)(b) case. She asserts that paragraph 42(1)(a) of the IRPA applies to cases where accompanying family members are inadmissible, whereas paragraph 42(1)(b) applies to cases where "they are an accompanying family member of an inadmissible person." She further argues that an admissibility hearing could have determined the category where she fits: if her case fell under paragraph 42(1)(b) of the IRPA, then she would be exempt, according to subsection 226(b) of the Regulations, from the requirement to obtain a written authorization to return to Canada at any time after the Deportation Order was enforced.

[36] Once again, I do not agree with Ms. Chen.

[37] It is clear from the Regulations that Ms. Chen was not entitled to an admissibility hearing as her Deportation Order was undoubtedly based on paragraph 42(1)(a) of the IRPA, and not on paragraph 42(1)(b). It is not disputed that, pursuant to the Regulations, there is no right to an admissibility hearing in this situation. By operation of the law under paragraph 228(1)(d) of the Regulations, the Officer was authorized to issue the Deportation Order without an admissibility hearing. The Officer had determined that Ms. Chen's accompanying family member (i.e., her husband) was an inadmissible person and, therefore, she was herself inadmissible pursuant to paragraph 42(1)(a) of the IRPA.

[38] In addition, Ms. Chen could not claim to be entitled to an admissibility hearing on the basis of the allegation of misrepresentation made against her pursuant to paragraph 40(1)(a) of the IRPA, as this ground of inadmissibility was withdrawn by the CBSA. In the present case, the basis for the Deportation Order was paragraph 42(1)(a) of the IRPA. Period. The Officer was therefore authorized to issue the Deportation Order against Ms. Chen as such order can be issued against an inadmissible family member without holding a hearing, pursuant to the express wording of paragraph 228(1)(d) of the Regulations. In the circumstances of this case, there is no legal basis whatsoever to support Ms. Chen's claim that she had a right to an admissibility hearing.

D. ***The doctrine of legitimate expectations does not apply to Ms. Chen's situation***

[39] Ms. Chen finally points out that, back in April 2019, the Minister had referred her to an admissibility hearing on the basis of her misrepresentation pursuant to paragraph 40(1)(a) of the IRPA. Relying on *Agraira*, Ms. Chen claims that procedural fairness and the principle of legitimate expectations entitle her to an admissibility hearing. She contends that a reasonable expectation arises if an officer's conduct created a "clear, unambiguous and unqualified" expectation that "in the context of a private law contract… would be sufficiently certain to be capable of enforcement" (*Agraira* at paras 94-97; *Grewal v Canada (Citizenship and Immigration)*, 2014 FC 454 at para 11).

[40] This argument is totally without merit and simply amounts to an ill-founded application of the doctrine of legitimate expectations. In essence, Ms. Chen tries to give the doctrine of

legitimate expectations a scope that it simply does not have (*Nshogoza v Canada (Citizenship and Immigration)*, 2015 FC 1211 [*Nshogoza*] at paras 35-41).

[41] The doctrine of legitimate expectations is part of the rules of procedural fairness. This means that when such issues arise, the reviewing court must determine whether the process followed by the decision maker satisfies the level of fairness required in all the circumstances (*Khosa* at para 43; *Eshete v Canada (Minister of Citizenship and Immigration)*, 2012 FC 701 at para 9).

[42] As stated by the Supreme Court in *Agraira*, the doctrine of legitimate expectations provides that, if a public authority has made representations about the procedure it will follow in making a particular decision, or if it has consistently adhered to certain procedural practices in the past in making such a decision, the scope of the duty of procedural fairness owed to the affected person will be broader than it otherwise would have been. However, the practice or conduct said to give rise to the reasonable expectation must be "clear, unambiguous and unqualified" (*Agraira* at paras 94-95). Furthermore, the doctrine of legitimate expectations does not create substantive rights, and it cannot hinder the discretion of a decision maker responsible for applying the law (*Re Canada Assistance Plan (B.C.)*, [1991] 2 SCR 525, at pp 557-558; *Nshogoza* at paras 41-42).

[43] As the Supreme Court stated in *Canada (Attorney General) v Mavi*, 2011 SCC 30 [*Mavi*], the representations must be within the scope of the government official's authority. In addition, the representations said to give rise to the expectations must be "procedural in nature" and must

"not conflict with the decision-maker's statutory duty" (*Mavi* at para 68). An important tenet of the doctrine of legitimate expectations is that it cannot operate to defeat a statutory prohibition on the process contended for (*Lidder v Canada (Minister of Employment & Immigration)*, [1992] FCJ No 212 (FTD), 136 NR 254 at para 28). As stated by Justice Dawson in *Yoon v Canada (Citizenship and Immigration)*, 2009 FC 359 [*Yoon*], "no legitimate expectation can exist that is contrary to express provisions of the [IRPR] Regulations" (*Yoon* at para 20). In other words, the doctrine cannot be used to "counter Parliament's clearly expressed intent to confer an authority to a decision-maker" (*Canada (Minister of Citizenship and Immigration) v Dela Fuente*, 2006 FCA 186 at para 19). In no case can a public authority place itself in conflict with its duty and forego the requirements of the law (*Nshogoza* at para 42; *Oberlander v Canada (Attorney General)*, 2003 FC 944 at para 24).

[44] In this case, it is obvious that the representations made to Ms. Chen with respect to an admissibility hearing were expressed in the context of her inadmissibility on grounds of misrepresentation under paragraph 40(1)(a) of the IRPA. They were not made in the context of the separate ground of inadmissibility as an inadmissible family member under paragraph 42(1)(a). There is therefore no "clear, unambiguous and unqualified" representation for the admissibility hearing that Ms. Chen claims to be entitled to. On the contrary, there is a total absence of representations made by any CBSA officer in that respect. Furthermore, the legitimate expectation claimed by Ms. Chen would run contrary to the express provisions of paragraph 228(1)(d) of the Regulations, which provides for no admissibility hearing when a person is found inadmissible under paragraph 42(1)(a) of the IRPA. The doctrine of legitimate expectations simply does not apply here.

IV. Conclusion

[45] For the above detailed reasons, Ms. Chen's application for judicial review is dismissed. On a reasonableness standard, it is sufficient that the reasons in the Deportation Order demonstrate that the conclusion is based on an internally coherent and rational chain of analysis and that it is justified in relation to the facts and law that constrain the decision maker. This is the case here. Furthermore, in all respects, the Officer met all procedural fairness requirements in dealing with Ms. Chen's application. The Deportation Order is not vitiated by any error that would warrant the Court's intervention.

[46] The parties have not proposed a question of general importance for me to certify. I agree that there is none in this case.

JUDGMENT in IMM-5124-19

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed, without costs;

2. No serious question of general importance is certified.

"Denis Gascon"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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