Federal Court Cour fédérale

Date: 20210423

Docket: IMM-829-20

Citation: 2021 FC 352

[ENGLISH TRANSLATION]

Ottawa, Ontario, April 23, 2021

PRESENT: The Honourable Mr. Justice Gascon

BETWEEN:

GILBERT OGAZILEM WOPARA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The applicant, Gilbert Ogazilem Wopara, is a citizen of the United States and a permanent resident of Canada. He is seeking judicial review of a January 2020 decision [Decision] of the Immigration Appeal Division [IAD] of the Immigration and Refugee Board. The IAD upheld the decision of a visa officer [Officer] at the Canadian consulate in Los

Angeles, who had refused to issue a travel document to Mr. Wopara in November 2016 since he had failed, as a permanent resident, to comply with the residency obligation under section 28 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. In addition to confirming the officer's decision against Mr. Wopara, the IAD also determined that there were no humanitarian and compassionate grounds to warrant special relief under paragraph 67(1)(c) of the IRPA. In support of his humanitarian and compassionate application, Mr. Wopara had argued that his absence from Canada was primarily to care for his seriously ill father in the United States and that he demonstrated strong social, community, professional and academic establishment in Canada.

[2] Mr. Wopara argues that the IAD's Decision is unreasonable. He does not dispute the IAD's finding that he failed to comply with his residency obligation, but he argues that the IAD erred in three respects in its assessment of the humanitarian and compassionate grounds advanced in support of his application. According to Mr. Wopara, the IAD first ignored evidence of his significant establishment in Canada following the finding that he had failed to comply with the residency obligation. It also allegedly performed an unreasonable analysis of his responsibility to care for his ailing father in the United States. Finally, it allegedly imposed erroneous burdens on him and made multiple errors of law in its assessment of the sufficiency of the humanitarian and compassionate grounds to justify granting him special relief. Mr. Wopara is asking the Court to set aside the Decision and to order that another decision maker review his appeal. In response, the Minister of Public Safety and Emergency Preparedness [Minister] argues that the Decision is reasonable in all respects.

[3] For the reasons that follow, I will dismiss Mr. Wopara's application for judicial review. On the basis of the findings of the IAD, the evidence before it and the applicable law, I am not persuaded that the Decision should be set aside. When the Decision is read as a whole, the IAD's reasons provide a comprehensive analysis of the evidence and have the qualities that make the IAD's reasoning logical and coherent in relation to the facts and law constraining the IAD. While some passages in the Decision should have been more clearly worded and better developed, I do not find sufficient reasons to justify the Court's intervention.

II. Context

A. *Facts*

[4] Mr. Wopara, a native of Nigeria and a U.S. citizen, is an engineer by training, specializing in geology. He holds a Bachelor's degree in geology from the University of Port Harcourt in Nigeria, as well as a Master's degree in geotechnical engineering from the University of Missouri and a Master's degree in business administration from Robert Gordon University in Scotland. Mr. Wopara has five sisters and half-sisters, one of whom is currently in the United States. Mr. Wopara's mother and father, although no longer a couple, resided together in the United States until recently. His father has now returned to his native country to live out his life.

[5] In May 26, 2011, Mr. Wopara was granted permanent resident status in Canada as a skilled worker. However, Mr. Wopara did not make Canada his principal place of residence after obtaining permanent resident status because, he says, he needed to care for his seriously ill

father, who could no longer look after himself. Thus, during the five-year reference period identified by the Officer, from August 24, 2011 to August 24, 2016, Mr. Wopara was present in Canada for only 260 days, or just over one-third of the 730 days required under the IRPA. Mr. Wopara does not dispute this.

[6] Following the Officer's decision to refuse him a travel document to Canada because of his failure to comply with the residency obligation, Mr. Wopara appealed the Officer's decision to the IAD, citing humanitarian and compassionate grounds to retain his permanent resident status. Given his appeal, Mr. Wopara was able to return to Canada in 2017, where he pursued studies in applied finance (2017–2020) and entrepreneurship (2019–2020) at McGill University in Montréal. He also held various jobs during this time.

B. *Decision*

[7] In January 2020, the IAD dismissed Mr. Wopara's appeal and confirmed the Officer's decision to refuse to issue a travel document to Mr. Wopara. The IAD reached this conclusion on the basis of evidence that Mr. Wopara was in fact present in Canada for only 260 days in total over the five-year reference period.

[8] The IAD also refused to exercise its discretion to grant special relief, as authorized by paragraph 67(1)(c) of the IRPA, and to allow Mr. Wopara to retain his permanent resident status despite his substantial breach of the residency obligation. The IAD found that there were insufficient humanitarian and compassionate considerations, taking into account the best interests of the child directly affected by the decision, to warrant special relief. After assessing

Mr. Wopara's case as a whole, the IAD found that its negative assessment of the various factors to be considered clearly outweighed the only neutral factor in its assessment of Mr. Wopara's application, namely his degree of establishment in Canada. The IAD determined that, on balance, Mr. Wopara's breach of the residency obligation was the consequence of personal choices dictated by professional and economic considerations, rather than the result of exceptional humanitarian and compassionate circumstances.

[9] The IAD therefore found that a departure order was appropriate and ordered that Mr. Wopara leave Canada pursuant to subsection 69(3) of the IRPA and section 224 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227.

C. *Standard of review*

[10] The analytical framework for judicial review of an administrative decision is now the framework established by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*]. This framework is based on the presumption that the standard of reasonableness is now the applicable standard in all cases. The parties do not dispute this, and the IAD Decision is therefore reviewable against this deferential standard. Indeed, the pre-*Vavilov* jurisprudence supports this and had already recognized that the reasonableness standard applies to the question of whether special relief under paragraph 67(1)(c) of the IRPA is justified on humanitarian and compassionate grounds (*Canada (Citizenship and Immigration) v Khosa*, 2009 SCC 12 [*Khosa*] at para 58; *Dandachi v Canada (Citizenship and Immigration)*, 2016 FC 952 at para 13).

[11] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and 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 para 85; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 [*Canada Post Corp*] at paras 2, 31). The reviewing court must therefore consider "whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility" (*Vavilov* at para 99, citing, among others, *Dunsmuir v New-Brunswick*, 2008 SCC 9 [*Dunsmuir*] at paras 47, 74).

[12] It is not enough for the decision be justifiable. Where reasons are required, the "decision must also be *justified*, by way of those reasons, by the decision maker to those to whom the decision applies" [emphasis in original] (*Vavilov* at para 86). Thus, a court conducting a reasonableness review considers both the outcome of the decision and the reasoning process followed (*Vavilov* at para 87). Reasonableness review must entail a robust evaluation of administrative decisions. However, a reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with "respectful attention", and seek to understand the reasoning process followed by the decision maker to arrive at its conclusion (*Vavilov* at para 84). The reviewing court must exercise restraint and intervene only "where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process" (*Vavilov* at para 13). The reasonableness standard <u>always</u> finds its starting point in the principle of judicial restraint and deference, and requires reviewing courts to show respect for the distinct role that Parliament has chosen to confer on administrative decision makers rather than on the courts (*Vavilov* at paras 13, 46, 75).

III. Analysis

A. *Ignoring evidence of significant integration in Canada*

[13] Mr. Wopara first submits that the IAD should have considered evidence of his significant integration in Canada from May 2017 to January 2020 as an overwhelmingly positive factor in assessing his appeal, following the Officer's finding that he had failed to comply with the residency obligation. In Mr. Wopara's view, this was more than sufficient to allow his appeal. Mr. Wopara argues that the IAD ignored the substantial evidence filed in support of his social, community, professional and academic establishment in Canada since 2017 (*Vavilov* at para 126; *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1998] FCJ No 1425 (QL) [*Cepeda-Gutierrez*] at paras 16–17). According to Mr. Wopara, the IAD should have addressed this central factor in his application in a serious and thorough manner, and it failed to do so in the Decision.

[14] I do not agree with Mr. Wopara's arguments.

[15] The Decision demonstrates that the IAD analyzed the evidence of Mr. Wopara's subsequent establishment in Canada and even expressly recognized that it was a positive element in his case. However, in assessing Mr. Wopara's degree of establishment in Canada, the IAD considered, as it was required to do, both Mr. Wopara's subsequent establishment—following the officer's removal order—and his initial establishment during the five-year reference period. After weighing Mr. Wopara's very limited presence in Canada during the initial reference period, the IAD found that, in the end, Mr. Wopara's degree of establishment was a neutral

factor, as the positive attributes of Mr. Wopara's subsequent establishment were outweighed by the negative nature of his limited establishment during the reference period. I note in passing that after receiving permanent resident status in Canada as a skilled worker, Mr. Wopara never worked in Canada between 2011 and 2016. In sum, given that Mr. Wopara's initial establishment was virtually non-existent, and his subsequent establishment was not strong enough to compensate for the lack of establishment during the reference period, the IAD gave this factor a neutral assessment. The IAD also noted that it appreciated Mr. Wopara's commendable efforts to integrate in Canada eight years after he obtained permanent resident status; however, these efforts amounted to too little too late.

[16] A careful reading of the Decision therefore shows that the IAD took the trouble to assess the evidence of subsequent establishment put forward by Mr. Wopara and considered that integration in its assessment of his degree of establishment in Canada. Mr. Wopara clearly would have liked the IAD to have given it more weight, and sees it as sufficient evidence to justify his appeal. However, it is incorrect to say that the IAD ignored this evidence. Rather, the IAD did consider and give some weight to Mr. Wopara's subsequent establishment, while also noting that this subsequent establishment was of lesser importance than the initial establishment preceding the removal order. I see nothing unreasonable in this conclusion, and it was certainly open to the IAD to give limited weight to Mr. Wopara's more sustained settlement efforts, which came late, following his return to Montréal in 2017.

[17] I note that in its Decision, the IAD correctly relied on the various well-recognized criteria in the case law to determine whether humanitarian and compassionate grounds can justify special

relief under paragraph 67(1)(c) of the IRPA (*Ugwueze v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 713 at para 18; *Samad v Canada (Citizenship and Immigration)*, 2015 FC 30 at para 18; *Ambat v Canada (Citizenship and Immigration)*, 2011 FC 292 at para 27). In the case of an appeal by a permanent resident who has failed to comply with the residency obligation, these criteria include:

- the extent of the non-compliance with the residency obligation;
- the reasons for the departure from Canada;
- the reasons for the continued or lengthy stay abroad;
- reasonable attempts by the permanent resident to return to Canada at the earliest opportunity;
- the degree of initial and subsequent establishment of the permanent resident in Canada;
- the contact that the permanent resident has maintained with members of his family in Canada;
- the hardship and disruption that the loss of permanent resident status and return to their country of origin would cause to the permanent resident and their family members in Canada;
- his or her situation while living abroad;
- the best interests of any children directly affected; and
- other unique or special circumstances that would merit special relief.

[18] There are two dimensions to the degree of establishment in Canada that the IAD was required to consider, and they are exactly what the IAD focused on in the Decision by addressing both the initial and subsequent aspects of Mr. Wopara's establishment in its analysis.

[19] Mr. Wopara criticizes the IAD for not addressing all of the examples of integration that he provided, and submits that these omissions demonstrate the unreasonableness of the Decision.

I cannot accept this argument. It is well recognized that an administrative decision maker is presumed to have weighed and considered all the evidence before it, unless the contrary is established (*Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at para 36; *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No. 598 (FCA) (QL) at para 1). Moreover, failure to mention a particular piece of evidence does not mean that it has been ignored or discounted (*Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62 at para 16), and a decision maker is not required to refer to all the evidence supporting its conclusions. It is only where the panel is silent on evidence that clearly favours a contrary conclusion that the Court can intervene and infer that the panel failed to consider conflicting evidence in reaching its finding of fact (*Ozdemir v Canada (Minister of Citizenship and Immigration)*, 2001 FCA 331 at paras 9–10; *Cepeda-Gutierrez* at paras 16–17). However, the *Cepeda-Gutierrez* decision, relied upon by Mr. Wopara in his submissions, does not support the proposition that the mere failure to mention important evidence contradicting the panel's finding automatically renders the decision unreasonable and results in its reversal. On the contrary, the *Cepeda-Gutierrez* decision states that only when the omitted evidence is essential and directly contradicts the panel's conclusion can the reviewing court infer that the panel failed to consider the evidence before it. This is not the case here, and Mr. Wopara has not referred the Court to any such evidence with respect to his establishment in Canada.

[20] I can appreciate that Mr. Wopara may disagree with the IAD's assessment and may wish to challenge the weight given to his subsequent establishment. However, it is not for the Court to alter the weight given by the IAD to various humanitarian and compassionate considerations

(*Canada (Citizenship and Immigration) v Solmaz*, 2020 FCA 126 at paras 142–146). On judicial review, the Court is not permitted to substitute its own assessment of the evidence for that of the administrative decision maker. Deference to an administrative decision maker includes deferring to its findings and assessment of the evidence (*Canada Post Corp* at para 61). The reviewing court must in fact "refrain from reweighing and reassessing the evidence considered by the decision maker" (*Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55, citing *Khosa* at para 64). I would add that, as an administrative appeal tribunal, the IAD has considerable expertise in hearing and determining appeals under the IRPA, which therefore requires this Court to accord it a high degree of deference (*Khosa* at para 58; *Li v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 451 at para 26; *Charabi v Canada (Public Safety and Emergency Preparedness)*, 2011 FC 1184 at para 21).

[21] In this case, the arguments raised by Mr. Wopara and his repeated complaints regarding his subsequent degree of establishment are more an expression of his disagreement with the analysis of the evidence and the weight given to it by the IAD in the exercise of its discretion and expertise. This is not a situation where the administrative decision maker has ignored the evidence on the record and the general factual matrix that bears on its decision, or "fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at para 126). Mr. Wopara is effectively asking the Court to reweigh the evidence in his favour and to reassess the degree of establishment analyzed by the IAD. It is not the Court's role to engage in such an exercise.

B. ***Reasons for the absence from Canada and Mr. Wopara's responsibility for his ailing father in the United States***

[22] Mr. Wopara alleges that by determining that his mother and sisters were the primary caregivers for his ailing father in the United States, the IAD made a finding that contradicts the evidence. According to Mr. Wopara, there is no evidence to support this allegation and the IAD's analysis to this effect is as unreasonable as it is speculative, hypothetical and in profound violation of the objective documentary evidence filed. Mr. Wopara submits that, according to the evidence and his sworn testimony, he was his ailing father's primary caregiver, and that this was the reason he had to be away from Canada for extended periods of time and was unable to return at the first opportunity.

[23] Again, I am not persuaded by Mr. Wopara's arguments, which again urge the Court to reassess the evidence before the IAD.

[24] Despite Mr. Wopara's submissions about his absences from Canada and his role as his father's primary caregiver, the IAD did note Mr. Wopara's extensive travel and stays abroad. In light of this finding, the IAD concluded that Mr. Wopara could not be the primary caregiver for his ailing father on a day-to-day basis, while acknowledging that he had certainly provided assistance. I would also add that the IAD raised doubts about the credibility of Mr. Wopara's testimony. In the circumstances, I am of the view that it was reasonable for the IAD to infer that the other family members living with his father in the United States, namely Mr. Wopara's sisters and mother, were providing the day-to-day assistance required by his seriously ill father, who was unable to function independently.

[25] The IAD's acknowledgment that Mr. Wopara came to his father's aid (but was not the primary caregiver) is indicative of the IAD's consideration of the evidence. I recognize that the IAD does not specifically address some of the documentary evidence identified by Mr. Wopara. It would certainly have been desirable for the Decision to provide a more detailed explanation of the role of the various people involved in caring for Mr. Wopara's father. However, I note that at least one of the medical reports Mr. Wopara submitted, dated June 2017, states that Mr. Wopara's mother is his father's primary caregiver. The evidence also contains a medical report from September 2017 stating that the father is married and that six family members live in the same household. Therefore, when the evidence is read as a whole, I am not persuaded that it did not allow the IAD to conclude as it did that Mr. Wopara's share in the responsibility of caring for his father was limited.

[26] Having reviewed the evidence before the IAD, I am not satisfied that the documents filed reveal an analysis that can be characterized as speculative, hypothetical or in profound violation of the objective documentary evidence. In the Decision, the IAD did not deny that Mr. Wopara helped his father during the relevant period. Rather, the IAD, having analyzed all the evidence before it, simply concluded that it was not inclined to believe that Mr. Wopara was his father's primary caregiver. In my view, this conclusion is not inconsistent with the evidence raised by Mr. Wopara and falls "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law" (*Vavilov* at paras 86–87).

[27] As stated in *Vavilov*, the administrative decision maker's reasons must "meaningfully account for the central issues and concerns raised by the parties. . . because reasons are the

primary mechanism by which decision makers demonstrate that they have actually *listened* to the parties" [emphasis in original] (*Vavilov* at para 127). Perfection is not the norm, and failure to respond to every argument or to list all the facts is not an error warranting the Court's intervention. In this case, I am generally able to follow the IAD's reasoning and understand why the analysis of the reasons for Mr. Wopara's prolonged stay abroad and his failure to return to Canada at the earliest opportunity led the IAD to give a negative rating to both factors in its assessment of the humanitarian and compassionate grounds. It is not for the Court to reweigh this evidence, and the IAD's reasons demonstrate that it considered the appropriate factors and relevant evidence.

[28] I find that the reasons for the Decision, described in several paragraphs, make it clear that the IAD assessed all the testimony and evidence before it before concluding that the humanitarian and compassionate factors Mr. Wopara relied on were insufficient to warrant special relief. As set out, the IAD's findings make it easy for the parties and the Court to understand how the humanitarian and compassionate considerations related to Mr. Wopara's father's medical condition were considered and weighed by the IAD, and how the Decision was ultimately reached.

[29] According to *Vavilov*, the reasons given by administrative decision makers are of primary importance and are the starting point of the analysis. They are the primary mechanism by which administrative decision makers show that their decisions are reasonable—both to the affected parties and to the reviewing courts (*Vavilov* at para 81). Reasons "explain how and why a decision was made", demonstrate that "the decision was made in a fair and lawful manner", and

shield against “the perception of arbitrariness in the exercise of public power” (*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision.

[30] In Mr. Wopara’s case, I am of the view that the IAD’s reasons provide a transparent and intelligible rationale for the Decision with respect to the care required by his gravely ill father (*Vavilov* at paras 81, 136; *Canada Post Corp* at paras 28–29; *Dunsmuir* at para 48). The reasons demonstrate that the IAD followed rational, coherent and logical reasoning in its analysis and that the Decision conforms to the relevant legal and factual constraints that bore on the decision maker and the issue at hand (*Canada Post Corp* at para 30, citing *Vavilov* at paras 105–107). Paragraph 67(1)(c) of the IRPA empowers the IAD to allow an appeal before it where it is of the opinion, having regard to the best interests of a child directly affected by the decision, that sufficient humanitarian and compassionate considerations warrant special relief. However, after considering and weighing all the circumstances of the case and all the relevant factors, the IAD could certainly conclude that the humanitarian and compassionate factors that Mr. Wopara relied on did not outweigh his failure to comply with his residency obligation. In the end, the errors alleged by Mr. Wopara do not cause me “to lose confidence in the outcome reached by the decision maker” (*Vavilov* at para 122).

[31] The reasonableness standard requires the reviewing court to start with the decision and to recognize that the administrative decision maker has the primary responsibility for making factual determinations. Such findings are owed deference. The reviewing court examines the reasons, the record and the outcome and, if there is a logical and coherent explanation for the outcome, it does not intervene. Moreover, judicial review of an administrative decision maker’s

decision should not be “a line-by- line treasure hunt for error” (*Vavilov* at para 102; *Communications, Energy and Paperworkers Union of Canada, Local 30 v Irving Pulp and Paper Ltd*, 2013 SCC 34 at para 54; *Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53).

C. *Erroneous burdens and other errors of law*

[32] Mr. Wopara argues that the IAD erred in applying an unreasonable test and in requiring him to show “insurmountable” difficulties if his appeal were dismissed. Mr. Wopara submits that the IAD also undertook an unreasonable analysis in determining that his involvement in the family business abroad was not a relevant humanitarian and compassionate consideration (*Karpetas v Canada (Citizenship and Immigration)*, 2018 CanLII 138860 (CA IRB) [*Karpetas*]). In addition, Mr. Wopara alleges that the IAD gave negative weight to factors that should have been identified as neutral factors in the case before it. According to Mr. Wopara, the IAD should not have penalized him for failing to make a case for a child directly affected by the decision or family ties in Canada. Instead of giving these irrelevant factors a negative rating, the IAD should have simply disregarded them in its assessment.

[33] I do not agree with Mr. Wopara’s analysis.

[34] With respect to the argument that the IAD imposed an incorrect burden of proof by requiring Mr. Wopara to demonstrate “insurmountable difficulties” should he be unable to return to Canada, I am not persuaded that this is sufficient to invalidate the Decision. The IAD used the term “insurmountable difficulties” in its analysis of one of the humanitarian and compassionate considerations at issue, namely the hardship and disruption that the loss of permanent resident

status and return to his country of origin would likely cause Mr. Wopara and his family members in Canada. It appears that the IAD commonly uses the expression “insurmountable hardship” or difficulties in its decisions on this issue (*Condé v Canada (Public Safety and Emergency Preparedness)*, 2020 CanLII 113272 (CA IRB) at para 31; *Chowdhury v Canada (Public Safety and Emergency Preparedness)*, 2016 CanLII 40653 (CA IRB) at para 42*; Wotchou v Canada (Public Safety and Emergency Preparedness)*, 2012 CanLII 72852 (CA IRB) at para 46). Moreover, when the Decision is read contextually, and considering the criteria set out by the IAD in its reasons, I am satisfied that Mr. Wopara was not imposed an erroneous burden of proof. Admittedly, the wording used by the IAD, that Mr. Wopara would “not encounter insurmountable difficulties if he were unable to return to and settle in Canada”, is unfortunate and was, as the Minister pointed out at the hearing, rather clumsy. But when considered in the context of the IAD’s analysis of the hardship related to not being able to return to Canada, I see it more as a turn of phrase that expresses the fact that the hardship Mr. Wopara would face is rather minimal and insignificant. While the IAD could have stated this more plainly, I do not find that the mere use of the words “insurmountable difficulties” is sufficient to render the Decision unreasonable.

[35] Again, the error alleged by Mr. Wopara does not lead me “to lose confidence in the outcome reached by the decision maker” (*Vavilov* at para 122). I repeat that the reasons for a decision do not have to be perfect. It is sufficient for them to be understandable. The reasonableness standard is not concerned with a decision’s degree of perfection, but rather its reasonableness (*Vavilov* at para 91). This standard requires the reviewing court to start with the decision and recognize that the administrative decision maker has the primary responsibility for

making factual determinations. The reviewing court examines the reasons, the record and the outcome and, if there is a logical and coherent explanation for the outcome, it does not intervene. This is the case here with respect to the humanitarian and compassionate ground at issue.

[36] Mr. Wopara also submits that the IAD performed an unreasonable analysis in determining that his involvement with the family business abroad was not a relevant humanitarian and compassionate consideration. In my view, this argument is flawed. First, the decision cited by Mr. Wopara in support of his position must be distinguished. In *Karpetas*, the appellant had to leave Canada to accompany his mother to Greece following the bankruptcy of his parents' business and the breakdown of their marriage. Since his mother could not work in Greece, Mr. Karpetas had to provide her with financial assistance and pay for some of the medical expenses of his ailing uncle and grandfather. The IAD found that Mr. Karpetas' family obligations in Greece prevented him from returning to Canada, thereby justifying his prolonged absence. This decision does not support Mr. Wopara's contention that involvement in a family business abroad can be a relevant humanitarian and compassionate consideration.

[37] On the contrary, the IAD case law appears to establish that "such economically motivated departures for the financial support of immediate family are, at best, a neutral [humanitarian and compassionate] consideration" (*Zeinah v Canada (Citizenship and Immigration)*, 2014 CanLII 95229 (CA IRB) at para 12; *Mohamed v Canada (Citizenship and Immigration*), 2018 CanLII 89036 (CA IRB) at para 9; *Bi v Canada (Citizenship and Immigration)*, 2017 CanLII 57816 (CA IRB) at paras 7–8).

[38] Finally, Mr. Wopara alleges that the IAD erred in assigning negative weight to factors that did not apply to his situation and that should have been considered to be neutral factors. These include the negative assessment of the fact that Mr. Wopara has no family ties in Canada and the absence of the best interests of a child directly affected by the decision in the circumstances. I cannot agree with Mr. Wopara's arguments.

[39] In assessing the various criteria recognized in the case law for determining whether humanitarian and compassionate considerations may warrant special relief under paragraph 67(1)(c) of the IRPA, the IAD must determine whether the evidence supports a finding of sufficient humanitarian and compassionate considerations. In the Decision, the IAD determined that factors qualified as "negative" if they did not support a humanitarian and compassionate ground. I see nothing unreasonable in such a conclusion. Moreover, the fact that these factors were characterized as "neutral" rather than "negative" does not alter the IAD's conclusion: whether they are neutral or negative, the fact remains that, in either case, they do not establish humanitarian and compassionate grounds warranting special relief.

[40] I note with respect to the best interests of the child directly affected by the decision that the IAD simple noted that Mr. Wopara had not demonstrated that the dismissal of the appeal would have a negative impact on his child living in Italy and that this factor therefore did not support special relief.

[41] Contrary to Mr. Wopara's argument, I do not find that the IAD can be faulted for finding that he does not have family in Canada or that he does not have a child who would be adversely

affected by his removal from Canada. Rather, the IAD found that these factors did not, in Mr. Wopara's particular circumstances, contribute to a finding of humanitarian and compassionate considerations.

[42] The purpose of reasonableness review is to understand the basis on which a decision was made and to identify whether it contains a sufficiently critical or significant shortcoming or reveals an unreasonable analysis (*Vavilov* at paras 96–07, 101). The party challenging the decision must satisfy the reviewing court that "any [alleged] flaws or shortcomings. . . are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). In this case, I am satisfied that the reasoning of the IAD can be traced without the Court encountering any fatal flaws in its rationality or logic, and that the reasons contain a line of analysis that could reasonably lead the IAD, from the evidence before it and in relation to the relevant legal and factual constraints, to conclude as it did (*Vavilov* at para 102; *Canada Post Corp* at para 31). There are no serious shortcomings in the Decision that would undermine the analysis or infringe the requirements of justification, intelligibility and transparency.

IV. <u>Conclusion</u>

[43] For all these reasons, Mr. Wopara's application for judicial review is dismissed. I find nothing irrational in the decision-making process the IAD followed or in its findings. Rather, I find that the IAD's analysis bears the hallmarks of justification, transparency and intelligibility, and that the Decision is free of reviewable error. Under the reasonableness standard, it is sufficient for the Decision to be based on an internally coherent and rational chain of analysis

and to be justified in relation to the facts and law that constrain the administrative decision maker. This is the case here.

[44] None of the parties proposed a question of general importance for certification. I agree that there is none here.

JUDGMENT in IMM-829-20

THIS COURT'S JUDGEMENT is as follows:

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

2. No question of general importance is certified.

"Denis Gascon"
Judge

Certified true translation
Johanna Kratz, Reviser

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-829-20
STYLE OF CAUSE:	GILBERT OGAZILEM WOPARA v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY TELECONFERENCE BETWEEN MONTRÉAL, QUEBEC, AND OTTAWA, ONTARIO
DATE OF HEARING:	APRIL 8, 2021
JUDGMENT AND REASONS:	GASCON J.
DATED:	APRIL 23, 2021

APPEARANCES:

Guillaume Cliche-Rivard	FOR THE APPLICANT
Zoé Richard	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Cliche-Rivard - Avocats inc. Montréal, Quebec	FOR THE APPLICANT
Attorney General of Canada Montréal, Quebec	FOR THE RESPONDENT