Federal Court  Cour fédérale

Date: 20220601

Docket: IMM-3086-21

Citation: 2022 FC 802

Ottawa, Ontario, June 1, 2022

PRESENT: The Honourable Justice Fuhrer

BETWEEN:

KULWANT KAUR DAYAL

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REAONS

I. Overview

[1] This is the second judicial review of a matter involving these parties in the context of a sponsorship application.

[2] On November 27, 2018, the Immigration Appeal Division [IAD] of the Immigration and Refugee Board of Canada [IRB] found that the Applicant, Kulwant Kaur Dayal, is ineligible to

sponsor her family members for permanent residence because she does not meet the minimum necessary income [MNI] required by the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*]. The IAD also held that there are insufficient humanitarian and compassionate [H&C] factors to justify a special remedy. I presided over the prior judicial review, allowed the application and sent the matter back to the IAD for redetermination primarily on the basis of a faulty assessment of the H&C factor of the best interests of a child directly affected [BIOC]: *Dayal v Canada (Citizenship and Immigration)*, 2019 FC 1188 [*Dayal 2019*] at paras 34-38.

[3] At the rehearing of the matter before the IAD, the Applicant did not challenge the legal validity of the sponsorship refusal. Rather, the rehearing focussed on assessing whether, taking the BIOC into account, there are sufficient H&C considerations warranting special relief in light of all the circumstances of the case. The IAD again found there were not, and dismissed the appeal on April 16, 2021: *Dayal v Canada (Citizenship and Immigration)*, 2021 CanLII 141694 (CA IRB) [Decision].

[4] Ms. Dayal now seeks judicial review of the Decision on the grounds that the IAD erred in law in misapplying paragraph 67(1)(c) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], erred by engaging in speculation and ignoring relevant evidence, and erred in its assessment of the BIOC.

[5] There is no dispute that the overarching issue for determination in this matter is whether the Decision was reasonable. The presumptive standard of review is reasonableness: *Canada*

(Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65 [*Vavilov*] at paras 10, 25. I find that none of the situations rebutting such presumption is present here: *Vavilov*, at para 17.

[6] To avoid judicial intervention, the decision must bear the hallmarks of reasonableness – justification, transparency and intelligibility: *Vavilov*, at para 99. A decision may be unreasonable if the decision maker misapprehended the evidence before it or did not meaningfully account for or grapple with central or key issues and arguments raised by the parties: *Vavilov*, at paras 125-127. Matters of statutory interpretation are not treated uniquely and, as with other questions of law, may be evaluated on a reasonableness standard: *Vavilov*, at para 115. The party challenging the decision has the onus of demonstrating that the decision is unreasonable: *Vavilov*, at para 100.

[7] Notwithstanding the Supreme Court's caution against "an endless merry-go-round of judicial reviews and subsequent reconsiderations," I am satisfied that there are compelling reasons, explained below, for granting the Applicant's current judicial review application: *Vavilov*, at para 142. Once again, I find the determinative issue is the insufficiency of the IAD's BIOC analysis, thus rendering the Decision unreasonable.

[8] See Annex "A" for applicable legislative provisions.

II. Analysis

[9] The analysis addresses in turn each of the errors identified by the Applicant.

A. *No misapplication of paragraph 67(1)(c) of the* IRPA

[10] I am not persuaded that the IAD erred in law in misapplying the *IRPA* s 67(1)(c).

[11] Pursuant to this provision, the IAD must be satisfied that sufficient H&C considerations warrant special relief. It is a discretionary remedy that "acts as a sort of safety valve available for exceptional cases": *Semana v Canada (Citizenship and Immigration),* 2016 FC 1082 at para 15.

[12] Further, this Court previously has held that the persuasive value of the H&C considerations must be more compelling the more serious the degree of inadmissibility: *Bermudez Anampa v Canada (Citizenship and Immigration)*, 2019 FC 20 at para 26; ***Patel v Canada (Citizenship and Immigration)***, 2019 FC 394 at para 12; *Ouedraogo v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 310 at para 27; *Canada (Citizenship and Immigration) v Doss*, 2021 FC 623 at para 20.

[13] I find that that the IAD reasonably described these principles as follows: "…the exercise of discretion requires nuance, qualitative assessment of the evidence, and a view of all the circumstances of the case [; h]owever, a qualitative approach is not incongruous with a spectrum of special relief that considers whether there are sufficient H&C factors in light of the magnitude of the inadmissibility, which in this case is the income shortfall."

[14] The Applicant argues that the "spectrum" or "sliding scale" approach is not justified in that it pits the degree of non-compliance with all other factors. I disagree. While the

jurisprudence has established that the reason for inadmissibility to Canada (or, as here, the rejection of a sponsorship application) cannot be the determinative factor in an H&C application (because that would render the exemption pointless), the underlying reason the exemption is necessary is a relevant consideration and the weight attached to it is for the officer to determine: *Palencia v. Canada (Citizenship and Immigration)*, 2021 FC 1301 at para 42. In other words, the reasons why an applicant may find themselves seeking H&C relief must not eclipse adequate consideration of the nature and extent of the legal obstacles to granting the exemption: *Lopez Bidart v Canada (Citizenship and Immigration)*, 2020 FC 307 at para 32.

[15] There is no dispute that the gap between the Applicant's actual income and the required MNI is significant, with the shortfall exceeding $70,000 in each of the years 2017, 2018 and 2019. In the circumstances, I find that it was not unreasonable for the IAD to take the gap (i.e. the magnitude of the non-compliance with the *IRPA*) into account, and possible mitigation, in considering the financial risk posed by the sponsorship, and in weighing the factors overall. In my view, there was nothing illogical or incoherent regarding the IAD's articulation of the applicable considerations of an H&C assessment under the *IRPA* s 67(1)(c): *Vavilov*, at para 85. That said, as explained next in these reasons, I find that the IAD's analysis of those considerations fell short in several respects.

B. *IAD engaged in speculation but did not ignore relevant evidence*

[16] I find this is more a case of the IAD engaging in speculation rather than ignoring relevant evidence. The IAD is presumed to have considered all of the evidence presented and may refer just to the evidence it deems important: *Canada (Citizenship and Immigration) v Sohail*, 2017

FC 995 at para 31. Further, there is no indication, in my view, that the IAD ignored the evidence that was provided regarding the family's financial assets.

[17] I find, however, that the IAD improperly speculated about whether the Applicant's father would be able to find work given his age, and would continue working for any significant length of time. The IAD commented specifically that the father is at "normal retirement age," without explaining what was meant by this phrase or why this necessarily applied to the Applicant's father (who, the evidence showed, is a self-employed farmer, rather than an employee in a job with a mandatory retirement age). This Court previously has expressed that such speculation and conjectural conclusions by a decision maker are improper: *Dhudwal v Canada (Citizenship and Immigration)*, 2016 FC 1124 at paras 20-21; *Kaur v Canada (Citizenship and Immigration)*, 2017 FC 757 at para 62. In addition, the IAD must be sensitive to cultural contexts, including in respect of retirement, from a country of origin perspective, and not through "Western eyes": *Gjoka v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 386 at para 81; *A.P. v Canada (Citizenship and Immigration)*, 2020 FC 906 at para 22.

[18] I agree with the Applicant that, in arriving at the above conclusion, the IAD turned a positive factor, that her father wanted to work in Canada to support the family and would be aided in finding a job by the family friend who is assisting the Applicant financially, into negative one, giving weight to a speculative conclusion that he would have difficulty finding work because of his age: *Marshall v Canada (Citizenship and Immigration)*, 2017 FC 72 paras 35-37. The jurisprudence supports setting aside an administrative decision involving a statement

of facts followed by a finding that is not based on the facts but rather on conjecture: *Huot v Canada (Citizenship and Immigration)*, 2011 FC 180 at para 26.

[19] Otherwise, I find the IAD's determinations regarding other aspects of the application were not unreasonable in the circumstances. This includes its findings about the lack of clarity about the debt linked to the home the Applicant owns jointly with the family friend (who also is a relative of the Applicant's mother), the attendant expenses, the amount of the Applicant's financial contributions related to the sale of the matrimonial home and, in turn, the townhouse the Applicant acquired after the divorce from her spouse, and the Applicant's dependence on the family friend. I also find it was not unreasonable for the IAD to consider the possibility of a change in the family friend's situation that could alter his ability to provide financial support, and the possibility that the debt eventually would have to be repaid which is in line with his demonstrated expectations. These findings, in my view, are based on an insufficiency of evidence regarding Applicant's overall financial picture in relation to the family friend specifically, rather than on conjecture or speculation.

C. *IAD's BIOC analysis unreasonable*

[20] I find that the IAD again erred in its BIOC analysis in several key respects, thus warranting the Court's intervention.

[21] I start with the premise that "[i]n assessing whether an analysis of the child's best interests under s 67 of the IRPA is reasonable, the jurisprudence analysing this factor in the context of s 25(1) of the IRPA is relevant": *Phan v Canada (Citizenship and Immigration)*, 2019

FC 435 [*Phan*] at para 19. As my colleague Justice Strickland commented, the BIOC principle "is highly contextual because of the multitude of factors that may impinge on the child's best interests[; and] must therefore be applied in a manner responsive to **each child's particular age, capacity, needs, and maturity**": *Phan*, at para 20 (emphasis added). Further, "decision-makers must do more than simply state that the interests of a child have been taken into account, those interests must be well identified and defined, and examined with a great deal of attention in light of all the evidence": *Phan*, at para 21; *Vieira Sebastiao Melo v Canada (Citizenship and Immigration)*, 2022 FC 544 [*Melo*] at para 53.

[22] In addition, as guided by the Supreme Court, "the decision-maker should consider children's best interests as an important factor, give them substantial weight, and be alert, alive, and sensitive to them[; …] where the legislation specifically directs that the best interests of a child who is directly affected be considered, those interests are a singularly significant focus and perspective": *Phan*, above at paras 20-21, citing *Kanthasamy v Canada (Citizenship and Immigration)*, 2015 SCC 61 [*Kanthasamy*]; *Melo*, above at paras 49 and 52.

[23] As my colleague Justice Zinn observed, an officer is required to make an independent assessment separately of each of the relevant H&C factors, including the best interests of the children, and then weigh them collectively to decide whether there are circumstances which would excite in a reasonable person in a civilized community a desire to relieve the misfortunes of another (citing *Chirwa v Canada (Minster of Citizenship and Immigration)* (1970), 4 IAC 338, as quoted by *Kanthasamy* at para 13): *Melo*, above at para 47. It is quite possible that one of those factors alone may be sufficient, depending on the circumstance, to justify the H&C relief

sought: *Melo*, above at para 47. Further, the Applicant's income shortfall, that is the extent of the non-compliance with the *IRPA*, is **not** relevant to the consideration of the BIOC: *Melo*, above at para 46.

[24] With these principles in mind, I find that the IAD made several reviewable errors. By concluding that "[w]hile the children are healthy and attending school, they are missing an important parental structure in their lives," the IAD minimized the best interests of these children who were subjected to parental abuse and who witnessed the severe spousal abuse of their mother that spanned almost a decade: *Owusu v Canada (Minister of Citizenship and Immigration*), 2004 FCA 38 at para 5.

[25] Second, the Decision acknowledges that their traumatic childhood adversely affected the children, and the Applicant's evidence is that the children attended some classes to cope with stress and that she engaged in other activities with them to help ease their difficulties. The basis for the IAD's finding that the children are healthy, especially in respect of their mental health, is not evident in the reasons.

[26] For example, the Decision states, "I heard the children are healthy." Indeed, the Applicant answered, "Yes" when the IAD asked, "Are your children generally in good health?" When the IAD later asked, however, "Do the kids know that you are stressed," the Applicant answered, "Yes they know and they are also under stress."

[27] While I recognize that it is not necessarily unreasonable for a decision maker to prefer some evidence over other evidence, where there is no dispute that this family suffered significant and prolonged abuse at the hands of a parent and spouse, something more is required, in my view, to demonstrate that the IAD's conclusion the children are healthy was sufficiently "alert, alive and sensitive" to their lived experiences and was reasonable in the circumstances. I am not satisfied that it was, in the manner contemplated in the jurisprudence, as exemplified by this Court's decisions *Phan*, above at paras 18-28 and *Melo*, above at paras 46-75.

[28] Third, although the IAD identified the ages of all the children and paid some attention to the eldest child's situation, I am persuaded that the IAD did not identify, define and examine the best interests of each child, especially the younger two children, with a great deal of attention.

[29] Fourth, I find the IAD unreasonably failed to consider the impact of the Applicant's abuse, including profound isolation, on her relationship with her children and her ability to care for them, emotionally, mentally and financially. As the Applicant previously testified, "I cannot provide my children whatever they need. I cannot even take care of the house that much because health-wise, I am not good. … I cannot run away. I cannot leave the children. Because I suffered all this due to my children." And as she more recently described during the redetermination hearing, "I try to take good care of myself, take care of my health. I'm the only one taking care of them [the children] over here – I don't have anybody." The Applicant also testified about advice from her family doctor to the effect that, "you are in a lot of stress, so just focus on the children otherwise they will go into a lot of stress." In addition, the Applicant referred to her mental state during the redetermination hearing, as follows: "I feel sorry because I cry so easily,

a lot, because of my mental condition. I'm really sorry about that." Indeed, the transcript discloses several instances where the Applicant exhibited such distress.

[30] In sum, I find that the IAD erred by failing to identify and define the children's interests and needs, and to examine them with a great deal of attention: *Kanthasamy*, above at para 29. The IAD also failed, in my view, to apply the highly contextual, best interests principle in a manner responsive to each child's particular age, capacity, needs, maturity and level of development: *Obeid v Canada (Citizenship and Immigration)*, 2022 FC 88 at para 16, citing *Kanthasamy*, above at para 35. While the BIOC ultimately may not overcome the significant financial shortfall in a further redetermination, I am convinced it was unreasonable for the IAD to conclude that the income gap outweighed the H&C factors, in the second redetermination, without a properly focussed examination of these children's interests.

III. Conclusion

[31] Had the IAD's speculation about whether the Applicant's father would be able to find work given his age been its only error, I might not have been inclined to interfere with the Decision. As this Court recently noted, not every flaw or shortcoming will render the decision as a whole unreasonable: *Metallo v Canada (Citizenship and Immigration)*, 2021 FC 575 at para 26. A recurrence of the same or similar error, nonetheless could result in an unreasonable decision, depending on the outcome of the redetermination and the IAD's reasons.

[32] When the IAD's improper speculation is coupled with the significant BIOC errors described above, however, I am satisfied that the Decision on the whole is unreasonable.

[33] The Decision is set aside and the matter will be remitted to the IAD for redetermination.

[34] Neither party proposed a serious question of general importance for certification and I find that none arises in the circumstances.

JUDGMENT in IMM-3086-21

THIS COURT'S JUDGMENT is that:

1. The Applicant's judicial review application is granted.
2. The Immigration Appeal Division's decision dated April 16, 2021, and reported as *Dayal v Canada (Citizenship and Immigration)*, 2021 CanLII 141694 (CA IRB), is set aside.
3. This matter is to be remitted to the Immigration Appeal Division for redetermination.
4. There is no question for certification.

"Janet M. Fuhrer"
Judge

Annex "A": Relevant Provisions

***Immigration and Refugee Protection Act*, SC 2001, c 27**
***Loi sur l'immigration et la protection des réfugiés*, LC 2001, ch 27**

Sponsorship of foreign nationals **13 (1)** A Canadian citizen or permanent resident, or a group of Canadian citizens or permanent residents, a corporation incorporated under a law of Canada or of a province or an unincorporated organization or association under federal or provincial law — or any combination of them — may sponsor a foreign national, subject to the regulations.	**Parrainage de l'étranger** **13 (1)** Tout citoyen canadien, résident permanent ou groupe de citoyens canadiens ou de résidents permanents ou toute personne morale ou association de régime fédéral ou provincial — ou tout groupe de telles de ces personnes ou associations — peut, sous réserve des règlements, parrainer un étranger.
Humanitarian and compassionate considerations — request of foreign national **25 (1)** Subject to subsection (1.2), the Minister must, on request of a foreign national in Canada who applies for permanent resident status and who is inadmissible — other than under section 34, 35 or 37 — or who does not meet the requirements of this Act, and may, on request of a foreign national outside Canada — other than a foreign national who is inadmissible under section 34, 35 or 37 — who applies for a permanent resident visa, examine the circumstances concerning the foreign national and may grant the foreign national permanent resident status or an exemption from any applicable criteria or obligations of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly affected.	**Séjour pour motif d'ordre humanitaire à la demande de l'étranger** **25 (1)** Sous réserve du paragraphe (1.2), le ministre doit, sur demande d'un étranger se trouvant au Canada qui demande le statut de résident permanent et qui soit est interdit de territoire — sauf si c'est en raison d'un cas visé aux articles 34, 35 ou 37 —, soit ne se conforme pas à la présente loi, et peut, sur demande d'un étranger se trouvant hors du Canada — sauf s'il est interdit de territoire au titre des articles 34, 35 ou 37 — qui demande un visa de résident permanent, étudier le cas de cet étranger; il peut lui octroyer le statut de résident permanent ou lever tout ou partie des critères et obligations applicables, s'il estime que des considérations d'ordre humanitaire relatives à l'étranger le justifient, compte tenu de l'intérêt supérieur de l'enfant directement touché.
Right to appeal — visa refusal of family class **63 (1)** A person who has filed in the prescribed manner an application to sponsor	**Droit d'appel : visa** **63 (1)** Quiconque a déposé, conformément au règlement, une demande de parrainage au

a foreign national as a member of the family class may appeal to the Immigration Appeal Division against a decision not to issue the foreign national a permanent resident visa.	titre du regroupement familial peut interjeter appel du refus de délivrer le visa de résident permanent.
Appeal allowed **67 (1)** To allow an appeal, the Immigration Appeal Division must be satisfied that, at the time that the appeal is disposed of, **(a)** the decision appealed is wrong in law or fact or mixed law and fact; **(b)** a principle of natural justice has not been observed; or **(c)** other than in the case of an appeal by the Minister, taking into account the best interests of a child directly affected by the decision, sufficient humanitarian and compassionate considerations warrant special relief in light of all the circumstances of the case.	**Fondement de l'appel** **67 (1)** Il est fait droit à l'appel sur preuve qu'au moment où il en est disposé : **a)** la décision attaquée est erronée en droit, en fait ou en droit et en fait; **b)** il y a eu manquement à un principe de justice naturelle; **c)** sauf dans le cas de l'appel du ministre, il y a — compte tenu de l'intérêt supérieur de l'enfant directement touché — des motifs d'ordre humanitaire justifiant, vu les autres circonstances de l'affaire, la prise de mesures spéciales.

***Immigration and Refugee Protection Regulations*, SOR/2002-227**
***Règlement sur l'immigration et la protection des réfugiés* (DORS/2002-227)**

Sponsor **130 (1)** Subject to subsections (2) and (3), a sponsor, for the purpose of sponsoring a foreign national who makes an application for a permanent resident visa as a member of the family class or an application to remain in Canada as a member of the spouse or common-law partner in Canada class under subsection 13(1) of the Act, must be a Canadian citizen or permanent resident who **(a)** is at least 18 years of age; **(b)** resides in Canada; and **(c)** has filed a sponsorship application in respect of a member of the family class or the spouse or common-law partner in Canada class in accordance with section 10.	**Qualité de répondant** **130 (1)** Sous réserve des paragraphes (2) et (3), a qualité de répondant pour le parrainage d'un étranger qui présente une demande de visa de résident permanent au titre de la catégorie du regroupement familial ou une demande de séjour au Canada au titre de la catégorie des époux ou conjoints de fait au Canada aux termes du paragraphe 13(1) de la Loi, le citoyen canadien ou résident permanent qui, à la fois : **a)** est âgé d'au moins dix-huit ans; **b)** réside au Canada; **c)** a déposé une demande de parrainage pour le compte d'une personne appartenant à la catégorie du regroupement familial ou à celle des époux ou conjoints de fait au Canada conformément à l'article 10.

Requirements for sponsor	**Exigences : répondant**
133 (1) A sponsorship application shall only be approved by an officer if, on the day on which the application was filed and from that day until the day a decision is made with respect to the application, there is evidence that the sponsor	**133 (1)** L'agent n'accorde la demande de parrainage que sur preuve que, de la date du dépôt de la demande jusqu'à celle de la décision, le répondant, à la fois :
(a) is a sponsor as described in section 130;	**a)** avait la qualité de répondant aux termes de l'article 130;
(b) intends to fulfil the obligations in the sponsorship undertaking;	**b)** avait l'intention de remplir les obligations qu'il a prises dans son engagement;
(c) is not subject to a removal order;	**c)** n'a pas fait l'objet d'une mesure de renvoi;
(d) is not detained in any penitentiary, jail, reformatory or prison;	**d)** n'a pas été détenu dans un pénitencier, une prison ou une maison de correction;
(e) has not been convicted under the Criminal Code of	**e)** n'a pas été déclaré coupable, sous le régime du Code criminel :
(i) an offence of a sexual nature, or an attempt or a threat to commit such an offence, against any person,	**(i)** d'une infraction d'ordre sexuel ou d'une tentative ou menace de commettre une telle infraction, à l'égard de quiconque,
(i.1) an indictable offence involving the use of violence and punishable by a maximum term of imprisonment of at least 10 years, or an attempt to commit such an offence, against any person, or	**(i.1)** d'un acte criminel mettant en cause la violence et passible d'un emprisonnement maximal d'au moins dix ans ou d'une tentative de commettre un tel acte à l'égard de quiconque,
(ii) an offence that results in bodily harm, as defined in section 2 of the Criminal Code, to any of the following persons or an attempt or a threat to commit such an offence against any of the following persons:	**(ii)** d'une infraction entraînant des lésions corporelles, au sens de l'article 2 de cette loi, ou d'une tentative ou menace de commettre une telle infraction, à l'égard de l'une ou l'autre des personnes suivantes :
(A) a current or former family member of the sponsor,	**(A)** un membre ou un ancien membre de sa famille,
(B) a relative of the sponsor, as well as a current or former family member of that relative,	**(B)** un membre de sa parenté, ou un membre ou ancien membre de la famille de celui-ci,
(C) a relative of the family member of the sponsor, or a current or former family member of that relative,	**(C)** un membre de la parenté d'un membre de sa famille, ou un membre ou ancien membre de la famille de celui-ci,
(D) a current or former conjugal partner of the sponsor,	**(D)** son partenaire conjugal ou ancien partenaire conjugal,

(E) a current or former family member of a family member or conjugal partner of the sponsor,
(F) a relative of the conjugal partner of the sponsor, or a current or former family member of that relative,

(G) a child under the current or former care and control of the sponsor, their current or former family member or conjugal partner,

(H) a child under the current or former care and control of a relative of the sponsor or a current or former family member of that relative, or
(I) someone the sponsor is dating or has dated, whether or not they have lived together, or a family member of that person;

(f) has not been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence referred to in paragraph (e);

(g) subject to paragraph 137(c), is not in default of
(i) any sponsorship undertaking, or
(ii) any support payment obligations ordered by a court;

(h) is not in default in respect of the repayment of any debt referred to in subsection 145(1) of the Act payable to Her Majesty in right of Canada;

(i) subject to paragraph 137(c), is not an undischarged bankrupt under the Bankruptcy and Insolvency Act;

(j) if the sponsor resides
(i) in a province other than a province referred to in paragraph 131(b),
(A) has a total income that is at least equal to the minimum necessary income, if the sponsorship application was filed in respect of a foreign

(E) un membre ou un ancien membre de la famille d'un membre de sa famille ou de son partenaire conjugal,
(F) un membre de la parenté de son partenaire conjugal, ou un membre ou ancien membre de la famille de celui-ci,
(G) un enfant qui est ou était sous sa garde et son contrôle, ou sous celle d'un membre de sa famille ou de son partenaire conjugal ou d'un ancien membre de sa famille ou de son ancien partenaire conjugal,
(H) un enfant qui est ou était sous la garde et le contrôle d'un membre de sa parenté, ou d'un membre ou ancien membre de la famille de ce dernier,
(I) une personne avec qui il a ou a eu une relation amoureuse, qu'ils aient cohabité ou non, ou un membre de la famille de cette personne;

f) n'a pas été déclaré coupable, dans un pays étranger, d'avoir commis un acte constituant une infraction dans ce pays et, au Canada, une infraction visée à l'alinéa e);

g) sous réserve de l'alinéa 137c), n'a pas manqué :
(i) soit à un engagement de parrainage,
(ii) soit à une obligation alimentaire imposée par un tribunal;

h) n'a pas été en défaut quant au remboursement d'une créance visée au paragraphe 145(1) de la Loi dont il est redevable à Sa Majesté du chef du Canada;

i) sous réserve de l'alinéa 137c), n'a pas été un failli non libéré aux termes de la Loi sur la faillite et l'insolvabilité;

j) dans le cas où il réside :
(i) dans une province autre qu'une province visée à l'alinéa 131b) :
(A) a un revenu total au moins égal à son revenu vital minimum, s'il a déposé une demande de parrainage à

national other than a foreign national referred to in clause (B), or **(B)** has a total income that is at least equal to the minimum necessary income, plus 30%, for each of the three consecutive taxation years immediately preceding the date of filing of the sponsorship application, if the sponsorship application was filed in respect of a foreign national who is **(I)** the sponsor's mother or father, **(II)** the mother or father of the sponsor's mother or father, or **(III)** an accompanying family member of the foreign national described in subclause (I) or (II), and	l'égard d'un étranger autre que l'un des étrangers visés à la division (B), **(B)** a un revenu total au moins égal à son revenu vital minimum, majoré de 30 %, pour chacune des trois années d'imposition consécutives précédant la date de dépôt de la demande de parrainage, s'il a déposé une demande de parrainage à l'égard de l'un des étrangers suivants : **(I)** l'un de ses parents, **(II)** le parent de l'un ou l'autre de ses parents, **(III)** un membre de la famille qui accompagne l'étranger visé aux subdivisions (I) ou (II),
(ii) in a province referred to in paragraph 131(b), is able, within the meaning of the laws of that province and as determined by the competent authority of that province, to fulfil the undertaking referred to in that paragraph; and	**(ii)** dans une province visée à l'alinéa 131b), a été en mesure, aux termes du droit provincial et de l'avis des autorités provinciales compétentes, de respecter l'engagement visé à cet alinéa;
(k) is not in receipt of social assistance for a reason other than disability.	**k)** n'a pas été bénéficiaire d'assistance sociale, sauf pour cause d'invalidité.

FEDERAL COURT

SOLICITORS OF RECORD

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