

Federal Court



Cour fédérale

**Date: 20220923**

**Docket: IMM-3878-21**

**Citation: 2022 FC 1325**

**Ottawa, Ontario, September 23, 2022**

**PRESENT: Madam Justice Sadrehashemi**

**BETWEEN:**

**QEMAIL ALIAJ  
LIRIE ALIAJ  
GRETA ALIAJ**

**Applicants**

**and**

**THE MINISTER OF IMMIGRATION,  
REFUGEES AND CITIZENSHIP**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicants are a family of three – Qemail Aliaj (“Mr. Aliaj”), his wife and their adult daughter. The Applicants made a claim for refugee protection because of their fear that they would not be able to receive protection from the police in Albania if they were attacked by an individual and/or his associates who are connected with drug dealing and criminal activity in

Albania. The Refugee Protection Division (“RPD”) dismissed their claim on several grounds: i) it did not find the Applicants’ allegations to be credible; ii) the Applicants had not demonstrated that state protection would not be available to them; and in the alternative iii) even if it had found the allegations credible, the RPD found that there were viable internal flight alternatives (“IFAs”) where the Applicants could safely relocate.

[2] The Applicants have not convinced me that there is a basis to disrupt the RPD’s IFA finding. They have not shown any serious shortcomings in the RPD’s analysis on this issue. Accordingly, for the reasons set out below, I dismiss the application for judicial review.

## II. Background

[3] Mr. Aliaj owned a store in Albania. He alleges that he and his son, who is not an Applicant in this judicial review, became targets of an individual, who is a drug dealer with the Albanian mafia, when he refused to allow him to sell drugs there or to buy his store. In July 2012, Mr. Aliaj was shot by this individual at his store. He was seriously injured and spent five days in the hospital in critical condition.

[4] The individual who shot Mr. Aliaj was eventually arrested and sentenced to serve approximately six years in prison. Even when he was arrested, Mr. Aliaj and his family allege that they still feared the other individuals who had been involved in the shooting. The Applicants relocated from their hometown and allege that they lived in hiding in the capital city, Tirana, for approximately the next six years.

[5] In February 2018, Mr. Aliaj learned that the individual who shot him had been released from prison and was looking for him in his hometown. The Applicants relocated within Tirana after their son was chased and received threatening phone calls. He made a complaint to the police but was told he could not be protected from the entire mafia. Mr. Aliaj's son then fled to the United States and eventually made his way to Canada, where he made a refugee claim. This claim was refused in April 2019.

[6] The Applicants remained in Tirana until March 2019, when they were able to leave the country. They went first to the United States, and then made their way to Canada. Their claim was heard on April 19, 2021 and refused in a written decision on May 7, 2021.

### III. Issues and Standard of Review

[7] As I have noted above, the determinative issues on judicial review are the RPD's IFA assessment. I have not found it necessary to address the Applicants' other arguments.

[8] Both parties agree that the reasonableness standard applies. The Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] confirmed that reasonableness is the presumptive standard of review when reviewing administrative decisions on their merits. This case raises no issue that would justify a departure from that presumption.

IV. Analysis

[9] The Applicants argued in their written materials in advance of the hearing and at the hearing that they need not address the RPD's determination on IFA because the RPD stated that the determinative issues were state protection and credibility.

[10] I explained at the hearing that the RPD's reasons indicate that as an alternative to its finding on credibility and state protection, it was also dismissing the claim on the basis of the availability of an IFA. The RPD stated at the outset of its evaluation of the IFA issue: "In the alternative, if I were to believe that the principal claimant was threatened by ..., I find there is an internal flight alternative in Sarande or Vlore." The RPD's determination on IFA was made independent of its findings on credibility.

[11] I allowed the parties to provide written submissions after the judicial review hearing specifically addressing the reasonableness of the IFA determination.

[12] Again, in their post-hearing submissions, the Applicants argued that IFA could not be a dispositive issue in the judicial review because the RPD had not stated that the IFA was a determinative issue, only credibility and state protection: "The Panel expressly identified credibility and state protection as the determinative issues. If IFA were determinative, the Panel would have said so. Because IFA is not determinative, whether the IFA analysis is reasonable or not is not dispositive of this judicial review."

[13] I do not agree. Even if I were to agree with Applicants' arguments on credibility and state protection, I would still need to address the RPD's alternative finding. This was another basis on which the RPD stated it was dismissing the Applicants' claim.

[14] The Applicants also argued that the RPD's reasons are incoherent because "IFA cannot both be non-determinative and an independent ground that justifies the decision." I do not agree. First, the RPD did not state that the IFA was non-determinative of the claim. It found that credibility and state protection were determinative and then provided an alternative basis, i.e. another basis, for dismissing the claim by evaluating whether there was an IFA. This is not incoherent. This is the way an alternative argument works. If the RPD had not identified it as an alternative basis for their decision, then perhaps there could be some merit to the Applicants' reasoning. But in this case, the RPD was transparent with its reasoning process; there is no basis to find that the RPD was being incoherent in this respect.

[15] In their post-judicial review hearing submissions, the Applicants also provided submissions as to how the RPD's analysis on IFA was unreasonable. The focus of their argument was on the first prong of the IFA test, namely: whether the Applicants could safely relocate to Vlore or Sarande (*Rasaratnam v Canada (Minister of Employment and Immigration)*, [1992] 1 FC 706). The Applicants raised three issues with the IFA assessment. I do not find that any of them provide a basis to set aside the RPD's determination. The Applicants' arguments regarding the RPD's IFA analysis are limited to minor issues and miss the key basis for the RPD's finding.

[16] The Applicants' arguments focus on the following sentence in the RPD's reasons: "The principal claimant has not presented any objective evidence that he is well known in his community." First, they argue that the RPD misstated the evidence because the principal claimant had not said he was "well-known" but rather only that he was "known." I do not see how this distinction would have made any difference in the RPD's analysis. Moreover, in the paragraph that precedes this statement, the RPD correctly referenced the principal claimant's testimony on this point, explaining that he had testified that "he was known in his community and could be located."

[17] Second, the Applicants argue, relying on *Senadheerage v Canada (Citizenship and Immigration)*, 2020 FC 968, that the RPD unreasonably required corroborative documents. The problem with this submission is that it ignores the substance of the RPD's analysis. The RPD did not base its IFA determination on the lack of objective evidence establishing that the principal claimant was "known" or "well-known". Rather, much of the analysis was focused on that the Applicants had lived in Tirana without incident since 2012, that the more recent incidents were related to Mr. Aliaj's son, that after Mr. Aliaj's attacker was released, the family remained in Tirana for another year without incident, and that there was no evidence that there had been any further contact with any of the Applicants' family since the Applicants left the country. The Applicants do not address the core basis for the RPD's IFA determination.

[18] Lastly, the Applicants argue that the RPD breached fairness by not asking Mr. Aliaj why he had not provided objective evidence to corroborate his testimony. The problem with this argument is the same as I have identified above. It puts too much emphasis on a point that was

not the basis on which the RPD determined that there was an IFA. The Applicants do not address the central basis on which the RPD made its IFA determination.

[19] Neither party raised a serious question of general importance and I agree that none arises. The application for judicial review is dismissed.

**JUDGMENT IN IMM-3878-21**

**THIS COURT'S JUDGMENT is that:**

1. Application for judicial review is dismissed; and
2. No serious question of general importance is certified.

"Lobat Sadrehashemi"

---

Judge



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

**DOCKET:** IMM-3878-21

**STYLE OF CAUSE:** QUMAIL ALIAJ ET AL v THE MINISTER OF  
IMMIGRATION, REFUGEES AND CITIZENSHIP

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** MARCH 16, 2022

**JUDGMENT AND REASONS:** SADREHASHEMI J.

**DATED:** SEPTEMBER 23, 2022

**APPEARANCES:**

Jeffrey L. Goldman FOR THE APPLICANTS

Neeta Logsetty FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Jeffrey L. Goldman FOR THE APPLICANTS  
Barrister and Solicitor  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario