

Federal Court



Cour fédérale

**Date: 20221129**

**Docket: IMM-1305-22**

**Citation: 2022 FC 1648**

**Ottawa, Ontario, November 29, 2022**

**PRESENT: The Honourable Mr. Justice Ahmed**

**BETWEEN:**

**AREZOO DADRAS NIA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Arezoo Dadras Nia, seeks judicial review of a decision of a visa officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”) dated January 26, 2022, refusing the Applicant’s study permit application pursuant to subsection 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 (“IRPR”).

[2] The Officer found insufficient evidence to conclude that the Applicant would leave Canada after her stay, and did not find her proposed studies reasonable given her previous studies at a higher level.

[3] The Applicant submits that the Officer's decision is unreasonable because it is based on an improper assessment of the evidence.

[4] I agree that the Officer's decision is unreasonable. I therefore grant this application for judicial review.

## **II. Facts**

### *A. The Applicant*

[5] The Applicant is a 40-year-old citizen of Iran. She is married and has no dependents. Her husband, parents, and brother are in Iran, and she has no family in Canada. She is currently residing in Spain.

[6] The Applicant completed her bachelor's degree and master's degree in Agricultural Engineering in Iran. In 2013, she earned her Doctor of Philosophy in Environmental Biotechnology and Toxicology at the Universiti Malaya in Malaysia. She has worked abroad as a research fellow in Malaysia, China, the United Kingdom, and Spain.

[7] Since 2019, the Applicant has worked as a research consultant at Nedaye Nasim-e-Shomal Company in Tehran, where she coordinates and provides expertise on executive projects to convert waste into usable energy. She has continued working here remotely while in Spain.

[8] The Applicant claims that her education and research experience in energy recycling and environmental protection is missing practical knowledge about energy management, which would open up her career opportunities. This is why she is pursuing a master's degree in Energy Management at the New York Institute of Technology ("NYIT"), at the Vancouver, British Columbia campus. The Applicant claims that energy management programs are not available in Iran. She received her acceptance letter to the NYIT Energy Management program on March 16, 2021. She has pre-paid her tuition for the first year.

[9] On July 7, 2021, the Applicant's immigration consultant submitted the Applicant's study permit application via the Authorized Paid Representative Portal (the "Portal"). On August 9, 2021, a visa officer refused this application. The Applicant filed an application for leave and judicial review of this initial refusal on August 26, 2021. On November 9, 2021, the Respondent proposed a settlement, which the Applicant accepted.

[10] On December 15, 2021, the Applicant's consultant received a request letter from IRCC via the Portal, requesting additional information for the redetermination of her application. The Applicant submitted several additional documents to corroborate her and husband's financial status, available funds, and the nature and extent of her ties to Iran. These included a receipt of

her pre-payment of tuition, bank statements, and letters from Nedaye Nasim-e-Shomal Company confirming her temporary leave of absence to complete her studies.

[11] The Applicant's study permit was refused on January 26, 2022.

B. *Decision Under Review*

[12] The Officer's decision is largely contained in their Global Case Management System ("GCMS") notes, which form part of the reasons for the decision.

[13] The Officer provides a summary of the facts and evidence on file, stating:

I have reviewed all the documents on file and the new submission by the applicant following the JR. The applicant is 39 y.o. an Iranian national currently living in Spain. The applicant has completed undergrad and masters degree and a doctoral degree. The applicant is currently working at Nedaye Nasime Shomal Co. I have reviewed the applicant's entire motivation letter as well as her CV. The applicant wishes to study a master of science program in Energy Management at new York Institute of Technology. The applicant highlights her attachment to her mother, and provides LOA and receipt for tuition as well as other financial documents.

[14] As the basis for refusal, the Officer then states:

I have considered the applicant's motivation however I do not find her current proposed study to be reasonable in relation to her career path and the fact that she has already completed studies at a higher level. This application is refused R216.

[15] The decision letter sent to the Applicant on January 26, 2022 states that the application is refused because the Officer is not satisfied that the Applicant would leave Canada at the end of her stay pursuant to subsection 216(1) of *IRPR*, and because the proposed program is not reasonable given the Applicant's previous studies at a higher level.

### **III. Issue and Standard of Review**

[16] This application for judicial review raises the sole issue of whether the Officer's refusal of the study permit application is reasonable.

[17] I agree with the parties that the appropriate standard of review is reasonableness, as established in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("Vavilov"). In *Vavilov*, the Supreme Court stated that the standard of review analysis begins with a presumption of reasonableness (at para 16). This is consistent with this Court's jurisprudence reviewing the decisions of visa officers on study permit applications: *Noulengbe v Canada (Citizenship and Immigration)*, 2021 FC 1116 at para 7; *Aghaalikhani v Canada (Citizenship and Immigration)*, 2019 FC 1080 at para 11; *Kavugho-Mission v Canada (Citizenship and Immigration)*, 2018 FC 597 at para 8.

[18] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). 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).

Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[19] While one hallmark of reasonableness is justification, which may involve reviewing the adequacy of reasons given for a decision (*Vavilov* at paras 79-81), the reasonableness of a decision should also be considered in light of its institutional context (*Vavilov* at paras 91, 103). Visa officers consider a high volume of applications, which inevitably limits the possibility for extensive reasons in every instance. That being said, the decision must still exhibit the hallmarks of reasonableness when reviewed as a whole, in light of the evidentiary record, with particular attention to a rational chain of analysis (*Vavilov* at paras 99, 137, 313).

#### IV. Analysis

[20] The Applicant submits that the Officer's decision is unreasonable because it lacks a rational chain of analysis based on the facts and evidence. The Officer's characterization of the NYIT program as being a lower level of education than the Applicant's previous degree disregards her purpose for pursuing the program, which is to further her career in energy management. The Applicant submits that this basis for refusal runs counter to this Court's decision in *Monteza v Canada (Minister of Citizenship and Immigration)*, 2022 FC 530 at para 13 ("*Monteza*"). Rather than properly assessing the evidence showing that the program is a logical progression in the Applicant's career and that she is a *bona fide* student, the Officer assumed the role of career advisor, which this Court has found unreasonable (*Adom v Canada (Citizenship and Immigration)*, 2019 FC 26 at paras 16-17 ("*Adom*").

[21] The Respondent maintains that the Officer reasonably found that the Applicant failed to prove that she is a *bona fide* student who would leave Canada at the end of her stay. The Respondent submits that the Applicant provided insufficient explanation as to how a master's degree in energy management relates to her desired career path and why she could not pursue these studies in Iran. The letters from the Applicant's employer are not clear or convincing evidence and the Officer's decision to grant them little weight was therefore reasonable.

[22] In my view, the Officer's decision is unreasonable because it bases its conclusion on an insignificant consideration, contrary to jurisprudence, and does so in favour of clear evidence pointing to the contrary. The Officer's assessment of the evidence contains a significant gap in reasoning, and is unjustified in light of the evidentiary and legal constraints (*Vavilov* at para 105). Even in cases with brief or no reasons for a decision, the decision must be reviewed as a whole to ensure that it is transparent, intelligible and justified (*Vavilov* at para 15). It is not this Court's role to reweigh or reassess the evidence before the Officer, but a reasonable decision must still be justified in light of the evidentiary record (*Vavilov* at paras 125-126).

[23] In this case, the GCMS notes show that the Officer's primary reason for refusing the Applicant's study permit application was that the NYIT program is a lower level of education than the Applicant's previous degrees and it is therefore not reasonable in relation to her desired career path. This basis for refusal shows little more than a knowledge of the Applicant's other degrees, rather than attentiveness to the detailed documentary evidence showing clear, logical reasons that the Applicant would pursue a more practical master's program to acquire tangible management skills, rather than remain in a more scientific and academic field. The Applicant

explains that energy management is focused on the practical mechanisms for reducing or controlling energy consumption, while her past education and work experience is focused in scientific and engineering research. Affidavits provided by the Applicant's colleagues speak directly to the difference between her current expertise and the management skills she lacks. The "Leave Request and Job Offer" letter provided by the Applicant's employer shows that upon the completion of her degree, she would be able to assume a new position as Manager of Energy Projects, transitioning from her current role as Research Consultant.

[24] This evidence provides clear and intelligible reasons for pursuing a master's degree in this particular program, despite already having a degree at a higher level. It strongly undermines the Officer's sole reason for refusing the study permit application and reveals a gap in reasoning in the Officer's decision. The reasons do not show that the contrary evidence was grappled with, and the ultimate finding is therefore illogical in light of the evidentiary record.

[25] In *Monteza*, this Court recently reviewed a similar decision of a visa officer, who denied a study permit application because the applicant's previous degree was at a higher level than the one she hoped to pursue in Canada (at para 11). My colleague Justice Furlanetto stated:

[12] The Officer states that the Applicant has provided "limited explanation regarding how this program differentiates from [her] previous degree in management accounting which is a higher level than the one she is proposing to study." However, this statement runs contrary to the nature of the Program and the Applicant's submissions in her study plan.

[13] First, there is no basis to state that the Applicant's former degree program is at a higher level than the proposed Program as the two programs are not related. The new Program is a post-graduate certificate course for students who have already



graduated with a degree, designed for students to update and expand on existing skills. As the Applicant explains in her study plan, she is looking to “polish and contemporize” her skill-set. The characterization of the Program as being at a lower level than the Applicant’s former degree disregards the basis for the Program.

[14] Second, the Officer imposes a requirement for the Applicant to differentiate the Program from her previous degree when her objective is instead to study in the same area and to update her skills and “deepen” her understanding and knowledge in her chosen field of study. The Applicant has been working in her field since 2006. She is seeking to enhance her knowledge in areas such as computerized accounting systems and software and in managerial strategy. It is a logical progression for the Applicant to want to pursue further studies in the same field: *Patel* at para 20. It was not reasonable for the Officer to require the Applicant to differentiate between the Applicant’s former degree and the Program considering the Applicant’s objectives.

[Emphasis added]

[26] Applying this reasoning to the Applicant’s case, the fact that energy management and energy-related research overlap or exist in the same industry does not mean that pursuing both would be redundant or that they do not provide different skills. Given the Applicant’s evidence, an individual with exclusively research experience would reasonably want to advance their practical skills to make themselves more desirable for non-research positions. As found in *Monteza*, the Officer’s characterization of the NYIT program as being at a lower level than the Applicant’s prior education disregards her purpose for pursuing the program and the evidence she provided to show this purpose. The Officer’s failure to contend with this evidence exhibits a lack of justification that makes this decision unreasonable.

[27] I also agree with the Applicant’s position that the Officer unreasonably acted as a career advisor. In *Adom*, this Court reviewed a visa officer’s refusal of a study work permit on the basis

that the applicant's intended studies would not advance her work for her brother's company. The visa officer unreasonably "assume[d] the role of career counsellor" and this indicated that the Applicant's detailed educational plan was not properly reviewed (*Adom* at paras 16-17).

[28] Justice Fuhrer relied on *Adom* in the recent case of *Seyedsalehi v Canada (Citizenship and Immigration)*, 2022 FC 1250 ("*Seyedsalehi*"), in which a visa officer refused a study permit application because the applicant's pursuit of a college level program was illogical given her previous master's degree at a university (at para 16). Justice Fuhrer found:

[16] Further, one is left wondering on what basis the Officer finds studying a college level program illogical in the face of a previously studied Masters level program at university. For example, does the Officer correlate the Masters program in Malaysia with a similar Masters level program in Canada? Does the Officer find the illogicality rests in a university (regardless of where located) versus a college program, i.e. is the latter considered to be a lower level or of lesser value? Or is it the Applicant's change of focus from psychology to early childhood education and care? Nowhere does the Officer provide reasons for the finding of illogicality, especially in the context of the Applicant's motivation letter or study plan. In my view, the Officer's finding is tantamount to an unreasonable "foray into career counselling" that lacks intelligibility and transparency: *Adom v Canada (Citizenship and Immigration)*, 2019 FC 26 at para 17.

[Emphasis added]

[29] The same reasoning can be applied in the Applicant's case. The Officer provides no substantive reason for deciding that the Applicant's pursued program of study is illogical given her previous education at a higher level, especially in the context of her detailed evidence explaining the purpose of this pursuit. Rather than carry out an intelligible, justified and

transparent analysis of this evidence, the Officer's reasoning exhibits a "foray into career counselling" that lacks reasonableness (*Seyedsalehi* at para 16, citing *Adom* at para 17).

**V. Conclusion**

[30] The Officer's refusal of the Applicant's study permit application is unreasonable because it does not involve a rational line of analysis that is justified on the basis of the evidence. The decision specifically fails to account for the evidence showing the Applicant's purpose for pursuing an additional degree to obtain practical skills in her field. This application for judicial review is granted. No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-1305-22**

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

1. The Applicant for judicial review is granted. The decision under review is set aside and the matter is remitted for redetermination by a different decision-maker.
2. There is no question to certify.

“Shirzad A.”

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Judge

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

**DOCKET:** IMM-1305-22

**STYLE OF CAUSE:** AREZOO DADRAS NIA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** BY VIDECONFERENCE

**DATE OF HEARING:** SEPTEMBER 8, 2022

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** NOVEMBER 29, 2022

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