

Federal Court



Cour fédérale

**Date: 20221212**

**Docket: IMM-3501-22**

**Citation: 2022 FC 1706**

**Ottawa, Ontario, December 12, 2022**

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

**BETWEEN:**

**FATEMEH SAHRAEI NAMIN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] The Applicant is a 37-year-old citizen of Iran who applied for a study permit to study in Canada. She seeks judicial review of a visa officer [Officer] decision dated February 4, 2022 [Decision] refusing her study permit application pursuant to section 216(1) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR].

[2] For the following reasons, the application for judicial review is granted.

## II. Background

[3] The Applicant completed a Bachelor's Degree in Agricultural Engineering – Plant Breeding on May 22, 2008 and has been employed at Green House 233 as a Greenhouse Manager since August 2008. She then earned a Master's Degree in Agricultural Engineering – Plant Breeding from Islamic Azad University in Tehran on January 21, 2015.

[4] On December 7, 2021, the Applicant received a letter of acceptance from Trinity Western University located in Langley, British Columbia for a Master's of Business Administration Degree [Program]. She requested a leave of absence from her employer to study, which was granted.

[5] On February 4, 2022, the Officer refused the Applicant's application as they were not satisfied that the Applicant would leave Canada at the end of her stay based on (a) her family ties in Canada and in her country of residence, and (b) the purpose of her visit. The Officer's reasons for their Decision are outlined in their Global Case Management System [GCMS] notes:

I have reviewed the application. I have considered the positive factors outlined by the applicant, including statements or other evidence. The applicant is 37, applying for an MBA at Trinity Western University. I note that, the applicant's proposed studies are not reasonable, as the applicant indicates previous education of a Master's degree in Agricultural Engineering, Plant Breeding in Iran. The applicant has been employed as a Manager at Green House 233 since 2008. The study plan does not appear reasonable given the applicant's employment and education history. I note that: - the client's previous studies were in an unrelated field - the client has previous studies at a higher academic level than the

proposed studies in Canada - the client's proposed studies are not reasonable given their career path. Client Explanation letter reviewed. The applicant does not demonstrate to my satisfaction compelling reasons for which such an educational program would be of benefit. Insufficient explanation has been given on how the sought educational program would be of benefit or how chosen course will improve job prospects back home. I am not satisfied that the applicant would leave Canada at the end of their stay as a temporary resident, I note that: - the applicant is married or has dependents or states to have close family ties in their home country, but is not sufficiently established. The applicant has not demonstrated sufficiently strong ties to their country of residence. Bank statement provided does not include a summary of transactions, therefore unable to confirm the provenance of the funds. The applicant has not demonstrated to my satisfaction being a genuine student that is actively pursuing studies and as such, I have concerns that they may be seeking entry for reasons other than educational advancement. The purpose of visit does not appear reasonable given the applicant's socio-economic situation and therefore I am not satisfied that the applicant would leave Canada at the end of the period of authorized stay. Weighing the factors in this application. I am not satisfied that the applicant will depart Canada at the end of the period authorized for their stay. For the reasons above, I have refused this application.

[6] The Applicant asks the Court to overturn the Decision. She submits that the Officer's Decision is unreasonable because it lacks a rational chain of analysis based on the facts and evidence. She also claims that the Officer breached their duty of procedural fairness in failing to provide the Applicant an opportunity to respond to credibility findings.

[7] As explained below, I find the Decision to be unreasonable. It is therefore not necessary to address the procedural fairness argument.

### III. Analysis

[8] The standard of review in such cases is reasonableness, as established in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at para 85. The burden is on the Applicant to satisfy the Court “that any shortcomings or flaws relied on...are sufficiently central or significant to render the decision unreasonable” (*Vavilov* at para 100). A reasonable decision is justified in light of the facts and “the reasonableness of a decision may be jeopardized where the decision maker has fundamentally misapprehended or failed to account for the evidence before it” (*Vavilov* at para 126).

[9] A visa officer’s decision is owed a high level of deference by the Court and their reasons can be brief (*Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 [*Lingepo*] at para 13; *Musasiwa v Canada (Citizenship and Immigration)*, 2021 FC 617 [*Musasiwa*] at para 22). However, it must meet the standard of a reasonable decision – one based on an internally coherent and rational chain of analysis that is justified in relation to the facts and law that constrain the decision maker: *Vavilov* at para 85; *Lingepo* at para 13; *Musasiwa* at para 22.

[10] In my view, 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 based on the evidence. More specifically, the Officer’s reasons fail to provide any rational basis for concluding that the Applicant’s motivations to study “[do] not appear reasonable” and that she is not “sufficiently established” in Iran. Let me explain.

[11] First, in terms of the Applicant's study plans, the Officer's reasons are based on a misapprehension of the evidence. The Officer found that the Applicant's previous studies were at a higher academic level than the proposed studies in Canada. However, this finding is incorrect as the Applicant's previous studies and her proposed studies in Canada are both Masters programs at the equivalent level.

[12] The Officer's finding that "the study plan does not appear reasonable given the applicant's employment and education history" is simply not supported by the evidence that was before the Officer. The Respondent submits that the Applicant did not provide sufficient details in her study plan that could have assisted the Officer. However, the Applicant stated in her application that the purpose for pursuing an additional degree was to obtain practical skills in her field. She also added that the only issue preventing her from establishing her own business is her lack of leadership knowledge and skills and that taking two years to obtain an MBA degree would be an investment that will serve her for a lifetime. The Applicant clearly explains the positive impact the Program will have for her career advancement. The Officer does not explain why the chosen Program is not reasonable given the Applicant's career goals.

[13] Second, the Officer's finding that the Applicant "has not demonstrated sufficiently strong ties to their country of residence" and is "not sufficiently established" lacks transparency, justification and intelligibility based on the evidence provided.

[14] The Officer states in the decision letter that the study permit is refused, at least in part, based on the Applicant's "family ties in Canada," however the Applicant has no such ties.

[15] As for her family ties in Iran, the Applicant stated in her application that she is married and has an 8-year-old daughter, and that both her spouse and child would remain in Iran while she pursued her studies in Canada. The Family Information Form also lists her parents and sister who reside in Iran. She has also been employed by the same employer since June 2008 and intends to return to work for the same employer as a manager upon her return to Iran.

[16] Although it is presumed that a visa officer considered all the evidence presented, in my view, the Officer ignored critical evidence that contradicts the Decision and failed to properly consider the strength of the ties that would pull the Applicant back to Iran.

[17] The Respondent points out in his memorandum of argument various facts on the record that would support the Officer's findings. These include the availability of similar programs in Iran at a lower cost, the lack of evidence of property owned by the Applicant in Iran, insufficient proof demonstrating the Applicant's family members require her assistance or support, and the Applicant's failure to explain why she had previously applied to work in Canada. While these may have been valid factors, it is not open to counsel advocating for the Officer to fashion counsel's own reasons to buttress the Decision. The Decision must stand or fall on its own based on the stated reasons: *Torkestani v Canada (Immigration, Refugee and Citizenship)*, 2022 FC 1469 at para 20.

#### IV. Conclusion

[18] For the reasons above, the application for judicial review is allowed. The matter is remitted for reconsideration by a different officer.

[19] There is no question of general importance for certification.

**JUDGMENT IN IMM-3501-22**

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

1. The application for judicial review is granted.
2. The matter is remitted to a different officer for reconsideration.
3. There is no question of general importance for certification.

“Roger R. Lafrenière”

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Judge



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

**DOCKET:** IMM-3501-22

**STYLE OF CAUSE:** FATEMEH SAHRAEI NAMIN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** NOVEMBER 9, 2022

**JUDGMENT AND REASONS:** LAFRENIÈRE J.

**DATED:** DECEMBER 12, 2022

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