Federal Court  Cour fédérale

Date: 20230202

Docket: IMM-718-22

Citation: 2023 FC 157

[ENGLISH TRANSLATION]

Ottawa, Ontario, February 2, 2023

PRESENT: Mr. Justice Régimbald

BETWEEN:

GODEFROID MASUSU GUPA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The applicant, Godefroid Masusu Gupa, is a citizen of the Democratic Republic of the Congo [DRC]. He worked for the National Documentation Service (Agence nationale de documentation [AND]), the National Intelligence and Protection Service (Service national d'intelligence et de protection [SNIP]) and the National Intelligence Agency (Agence nationale de renseignements [ANR]) for 30 years, from 1987 to 2017. He climbed the ranks from a

[TRANSLATION] “low-ranking agent” to the position of Second Assistant Director of the counter-espionage division of the ANR, the third highest position in the Agency.

[2] The ANR, SNIP and AND are in fact essentially the same organization, as it changed names over the years. It is an intelligence services organization in the DRC that was known well before 1987 as having a limited and brutal purpose (*Zoya v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16634 at para 11; *Diasonama v Canada (Minister of Citizenship and Immigration)*, 2005 FC 888 at paras 23–23). Several reports by Amnesty International and UN agencies have reported the crimes committed by those agencies, such as arbitrary arrests, extrajudicial executions and acts of torture.

[3] Having been threatened and assaulted, Mr. Gupa took advantage of an official trip to Montréal as an ANR representative to remain in Canada and eventually claim refugee protection. The Minister opposed it because, according to him, Mr. Gupa is neither a “Convention refugee” nor a “person in need of protection” under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] and Article 1 of the *Convention Relating to the Status of Refugees* [Convention].

[4] The Refugee Protection Division [RPD] and the Refugee Appeal Division [RAD] both accepted the Minister’s arguments. According to them, the ANR committed crimes against humanity and Mr. Gupa, as a result of his duties, made a voluntary, knowing and significant contribution to them. In particular, neither the RPD nor the RAD found Mr. Gupa to be credible

in the explanation of his role within the ANR, or his alleged lack of knowledge of the crimes committed.

[5] Mr. Gupa is seeking a judicial review of the RAD decision dated November 26, 2021. The RAD decision is based on the fact that Article 1F(a) of the Convention applies to the applicant and deprives him of the right to refugee protection under section 98 of the IRPA. The RAD found that there are reasonable grounds to believe that the applicant's contribution to numerous crimes against humanity committed by the intelligence services for which he worked was knowing, voluntary and significant. [Emphasis added.]

[6] For the following reasons, the application for judicial review is dismissed. The RAD decision and that of the RPD before it are reasonable with respect to the legal principles. The RAD did not err in applying the test set out in the case law for exclusion under Article 1F(a) of the Convention, and the evidence allowed the RAD to reject Mr. Gupa's credibility concerning his lack of awareness of and participation in the crimes committed by the ANR.

I. Background

[7] The applicant is a citizen of the DRC who worked as a public servant in the DRC's national intelligence services from July 1987 to 2017. In 1987, the applicant joined the counter-espionage branch as a low-ranking agent of the AND, which later became the SNIP and then the current ANR. The applicant climbed the ranks to reach the position of Second Assistant Director of the counter-espionage division of the ANR in 2007.

[8] In his testimony, the applicant stated that his duties in the beginning were to identify all embassies of African countries in Kinshasa. He then had the task of monitoring those embassies and gathering information on people working there in order to identify foreign employees. As he had typing skills, he stated that he was then asked to type up surveillance reports on those embassies.

[9] The applicant stated that, in 1989, he was promoted to Office Manager, a position he held until 1999. Between 1989 and 1997, the applicant stated that he did not do much, owing to the fall of the Soviet regime, and that he had difficulty finding work for his agents. Finally, beginning in 1997, he was recruited to monitor the embassies of Rwanda, Burundi, Congo-Brazzaville and Sudan.

[10] The applicant stated that, in 1999, he became Division Head, Surveillance, a position he held until 2007. In that position, he alleges that he managed up to 60 people assigned to four geographic offices: the Americas, Africa-Asia, Arab countries and Europe. As an example of his activities during that period, he stated that he received instructions to try to identify Congolese individuals who were meeting with foreigners.

[11] In his testimony, the applicant cited the example of a member of the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social [UDPS]) who had met with Belgian journalist Collette Braekman. He then had to forward a report to his director about that meeting. At the hearing, the applicant denied knowing how the information he was

forwarding to his director was then used, owing to the principle of compartmentalization, whereby each section of the intelligence services cannot know the activities of the other sections.

[12] It is important to know that the UDPS is one of the main opposition parties in the DRC. The record shows that its members were intentionally and regularly persecuted by the AND, the SNIP and the ANR. In fact, a report from Amnesty International states that, in the 1980s, the AND carried out nighttime arrests, kidnappings and even arson against UDPS members (Certified Tribunal Record [CTR], at page 556).

[13] In 2007, the applicant was finally promoted to the position of Second Assistant Director of the counter-espionage division. In his testimony, the applicant stated that he was responsible for sending food at dinner for the security guards at the office and managing sick leave requests.

[14] The applicant alleges that he began receiving threats from his employer in 2015 because of his refusal to gather compromising information against an individual in the Filimbi protest movement. He was allegedly suspended for 15 days for his refusal.

[15] Also in 2015, the applicant was chosen by his government to accompany an international delegation of human rights workers and journalists to investigate the discovery of a mass grave. At that event, the applicant allegedly reported findings that contradicted those of his government, resulting in a reprimand from his superior. He was told that he had to be in line with the government’s position or he would lose his job, with all the negative consequences that could entail, including the loss of his life.

[16] In 2016, following those threats, the applicant nonetheless claimed to have denounced the use of his agency for political purposes. He was then the victim of an armed assault.

[17] Then, in June 2017, the applicant was detained for adopting positions contrary to those of the Joseph Kabila regime. He was also threatened with death.

[18] Near the end of July 2017, the applicant was selected as part of a government delegation to attend an international aviation conference held in Montréal. It was a follow-up to a professional training workshop that had begun in Dakar in April 2017 and that he had also attended. At that time, he decided that he would remain in Canada following the conference because his life was threatened in the DRC. The applicant arrived in Canada on October 21, 2017, and never left.

[19] The applicant alleges that, following his arrival in Canada, his wife, who remained in the DRC, was threatened and raped in the night of November 3, 2017, by three armed individuals in a taxi when she was returning home from downtown. On December 16, 2017, he decided to file his Basis of Claim [BOC] Form.

II. Legislative framework

[20] Section 98 of the IRPA reads as follows:

Exclusion — Refugee Convention	**Exclusion par application de la Convention sur les réfugiés**
98 A person referred to in section E or F of Article 1 of	**98** La personne visée aux sections E ou F de l’article

the Refugee Convention is not a Convention refugee or a person in need of protection	premier de la Convention sur les réfugiés ne peut avoir la qualité de réfugié ni de personne à protéger
Refugee Convention	**Convention sur les réfugiés**
Article 1	**Article 1**
F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:	**F.** Les dispositions de cette Convention ne seront pas applicables aux personnes dont on aura des raisons sérieuses de penser :
(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;	**(a)** Qu'elles ont commis un crime contre la paix, un crime de guerre ou un crime contre l'humanité, au sens des instruments internationaux élaborés pour prévoir des dispositions relatives à ces crimes;
(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;	**(b)** Qu'elles ont commis un crime grave de droit commun en dehors du pays d'accueil avant d'y être admises comme réfugiés;
(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.	**(c)** Qu'elles se sont rendues coupables d'agissements contraires aux buts et aux principes des Nations Unies.

III. RPD decision

[21] Following an extensive analysis of the evidence on record, the RPD found that the agencies for which the applicant worked for over 30 years, the AND, the SNIP and the ANR,

committed crimes against humanity, such as arbitrary arrests, extrajudicial executions, forced disappearances and other inhumane acts.

[22] The RPD found that the acts committed by those agencies met the criteria set out in *Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40, [*"Mugesera"*]. The Minister clearly demonstrated that the intelligence services that employed the applicant for 30 years committed massive and systematic human rights violations against the DRC population.

[23] The RPD cited *Zoya v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16634 at para 11, and *Diasonama v Canada (Minister of Citizenship and Immigration)*, 2005 FC 888 at paras 23–24), which confirmed the limited and brutal purposes of the SNIP and the ANR, and the knowledge that the applicants, who had been employed for a long time by them, had of their activities, despite the lack of evidence showing that those employees had actually taken part in the crimes against humanity committed by the intelligence services.

[24] The RPD then found that there were therefore serious grounds to believe that the applicant's contribution to those crimes was knowing, voluntary and significant and that Article 1F(a) of the Convention therefore applies to him and deprives him of the right to refugee protection under section 98 of the IRPA.

[25] Indeed, the RPD found that there is abundant documentary evidence to show that the crimes against humanity committed by those agencies were committed throughout the

applicant's career. The panel found that the applicant had never been forced to remain in that job for 30 years and that his participation was voluntary.

[26] The panel also found that the applicant was aware of the crimes that were being committed by his employer because he held very important positions and the limited and brutal purposes of the agencies was well known. The RPD also cited *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*"Ezokola"*], in which the Supreme Court of Canada [SCC] states that, in cases where it is established that an organization has limited brutal purposes, it is easier to establish that an employee was aware of the crimes committed by it.

[27] The RPD also found that the applicant's testimony concerning the lack of knowledge of the abuses committed by those agencies was not credible.

[28] Finally, the RPD established that, given the many important positions held by the applicant during his career with those agencies, his contribution was significant. His testimony that his roles were minimal was also found not to be credible. The RPD instead found that the applicant had attempted to downplay the importance of his duties, in contrast to the description offered in his written account.

IV. RAD decision

[29] The RAD conducted an independent review of the evidence available to it and found that the applicant was not a refugee under paragraph F(a) of Article 1 of the Convention.

[30] Like the RPD, the RAD first found that the Minister had shown that the tests set out by the SCC in *Mugesera* to characterize a criminal act as a crime against humanity were met.

[31] The RAD then found that the RPD had respected the analytical framework set out by the SCC in *Mugesera* and *Ezokola* in finding that there were serious grounds to consider that the applicant had voluntarily and knowingly made a significant contribution to the crimes against humanity committed by the agencies for which he had worked for over 30 years.

[32] The RAD found that the applicant's testimony concerning his passive acceptance of the crimes committed by his employer was not credible. Like the RPD, the RAD found that it was more likely than not that the applicant knew of the limited and brutal purpose of the organizations for which he worked and knew that they were generally and systematically committing crimes against humanity. Moreover, before the RPD, the applicant acknowledged that he was aware that the agencies were carrying out arbitrary arrests.

[33] Following its own review, the RAD found that there was culpable complicity on the applicant's part within the meaning of *Mugesera* and *Ezokola*, as he voluntarily and knowingly made a significant contribution to the crime or criminal purpose of the ANR, on the following grounds:

i. The objective evidence and the Federal Court established the limited and brutal purpose of the ANR and the intelligence services that preceded it.

ii. The appellant's employment in the counter-espionage operations of the ANR and the intelligence services that preceded it was not in dispute.

iii. The appellant's participation in the ANR's counter-espionage, surveillance and international investigation activities and representation at international conventions contradicted his testimony that his role and his duties were administrative in nature.

iv. The appellant climbed the ranks of the ANR to a senior management position of Second Assistant Director.

v. The appellant had a career of over 30 years with the ANR and the organizations that preceded it, and its limited and brutal purpose was already well known when he joined it in 1987.

vi. The appellant did not deny that his hiring and his period of employment at the ANR were voluntary.

[34] The RAD discussed the applicant's evidence that allowed it, and had allowed the RPD before it, to question his credibility. For example, the RAD considered the fact that the applicant contradicted himself in his testimony concerning the principle of compartmentalization and the role of the other directors. Indeed, when asked to clarify how he could have become a manager without knowing what the other managers were doing, the applicant replied that he was informed when necessary. However, when the documentary evidence was pointed out to him concerning a speech by an ANR representative on the efforts by the intelligence services to ensure the re-election of President Kabila, the applicant provided detailed information about the activities of a provincial ANR director who had created a parallel counter-intelligence branch.

[35] Moreover, the RAD also considered the fact that there were some contradictions between the detailed account in the applicant's BOC Form and his testimony. For instance, according to the description of the applicant's duties in his BOC Form, he had more than simply an administrative role, as he had stated at the hearing. Among other things, he had been chosen to

represent the ANR to attend international conventions and had accompanied an international delegation when a mass grave was discovered.

[36] On the basis of its own analysis, the RAD found that there was culpable complicity. It found that the applicant's testimony was inconsistent and changing. The RAD also found that the fact that the applicant was given very important duties indicated that there were reasonable grounds to believe that he knew the limited and brutal purpose of the organizations for which he worked. Finally, like the RPD before it, the RAD established that the fact that the applicant had attempted to downplay the importance of his role within the ANR had undermined his credibility.

[37] The RAD therefore established that the RPD had not erred and that the applicant was not a refugee under paragraph F(a) of Article 1 of the Convention.

V. Preliminary issue

[38] The applicant accuses the RAD of not having analyzed the risk that he would face if he were to return to his country under sections 96 and 97 of the IRPA in finding that he was not a refugee or a person in need of protection.

[39] However, as indicated in the recent decision in *Jean-Baptiste v Canada (Citizenship and Immigration)*, 2021 FC 1362, rendered by McHaffie J, by analyzing the merits in a case in which section 98 applies as it does here, the Court would exceed its jurisdiction:

> [9] I disagree with this argument. It is clear from section 98 of the IRPA that the refugee protection claim of a person referred to in Article 1F of the *Refugee Convention* cannot be allowed even if it is well-founded. Indeed, the Federal Court of Appeal has even indicated that the RAD would exceed its jurisdiction by ruling on the merits of a refugee protection claim when section 98 applies: *Xie v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 38; *Han v Canada (Minister of Citizenship and Immigration)*, 2006 FC 432 at paras 39–41; *Islam v Canada (Citizenship and Immigration)*, 2010 FC 71 at paras 34–35; but also see *Gurajena v Canada (Citizenship and Immigration)*, 2008 FC 724 at para 5 concerning the possibility of determining this issue as an alternative finding.
>
> [10] The RAD found that exclusion is "an issue that must be settled first because of the wording of section 98". This conclusion is consistent with the case law and is reasonable.
>
> [Emphasis added.]

[40] The RAD therefore did not err in this respect.

VI. Issues and standard of review

[41] The only issue is whether the RAD's finding that the applicant is not a refugee or a person in need of protection under paragraph F(a) of Article 1 of the Convention is reasonable.

[42] The standard of review applicable in this case is that of reasonableness, as defined in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17 [*"Vavilov"*]. The role of the Court is to examine the reasoning used by the administrative decision-maker and the result obtained to determine if 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).

[43] The burden is on the party challenging the decision to show that it is unreasonable. Before a decision can be set aside on this basis, the reviewing court must be satisfied that the decision suffers from serious shortcomings such that it cannot be said to meet the requirements of justification, intelligibility and transparency (*Vavilov* at para 100).

VII. Analysis

[44] The applicant alleges that the RAD rendered a decision for which the reasons are not founded in fact or in law, as it did not give any weight to the applicant's evidence.

[45] The respondent submits that the application for judicial review does not raise any grounds that justify the Court's intervention, as the RAD decision is reasonable and supported by the evidence on the record. The respondent also submits that the applicant is simply asking the Court to reweigh the evidence and substitute its view for that of the RAD and is simply repeating the criticisms of the RPD decision that he presented before the RAD. However, that is not the role of the Court in an application for judicial review (*Zang v Canada*, 2020 FC 75 at para 34).

A. *ANR's crimes are crimes against humanity*

[46] The Minister submits that there are reasonable grounds to consider that the applicant is complicit in crimes committed by the intelligence agencies for which he worked for 30 years, in particular arbitrary arrests (Article 7(1)(e), *Rome Statute of the International Criminal Court*, U.N. Doc. A/CONF.183/9, July 17, 1998 [Rome Statute], extrajudicial executions (Article 7(1)(a), Rome Statute), torture (Article 7(1)(f), Rome Statute), enforced disappearances

of persons (Article 7(1)(i), Rome Statute) and other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health (Article 7(1)(k), Rome Statute).

[47] In its decision, the RPD stated that the Rome Statute is an international tool that can be useful in this case, as Article 7 sets forth a list of acts characterized as crimes against humanity, such as those described by the Minister.

[48] At the hearing, the applicant argued that, although he acknowledged that the ANR had committed heinous crimes, he did not acknowledge that those crimes constituted crimes against humanity under the criteria set out in the Rome Statute. At the hearing, he presented a new argument that the Rome Statute requires that a government policy be in place to establish that there has been a crime against humanity, and no evidence of such a policy was presented by the Minister. In other words, the crimes committed by the ANR would not constitute crimes against humanity within the meaning of the Rome Statute.

[49] I do not agree with that argument. As stated by Grammond J at paragraph 13 of *Canada (Public Safety and Emergency Preparedness) v Verbanov*, 2021 FC 507, "the Rome Statute laid these issues [concerning the definition of crimes against humanity] to rest with respect to acts committed after its coming into force in the countries that ratified it". [Emphasis added.]

[50] Thus, as the Rome Statute was ratified by Canada in 2000 by the *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24 ["Crimes Against Humanity Act"], its

requirements only apply to acts committed after 2000. Although the applicant was part of those organizations until 2007, he joined then in 1987, 13 years before the Act came into effect.

[51] Accordingly, in this case, it is instead *Mugesera* that applies, which does not require the existence of such a policy. In that 2005 decision, the SCC did not consider the Rome Statute, as the applicant's alleged crimes had been committed in 1992.

[52] Paragraph 119 of *Mugesera* sets forth the factors to be considered to characterize a criminal act as a crime against humanity:

> 119 As we shall see, based on the provisions of the *Criminal Code* and the principles of international law, a criminal act rises to the level of a crime against humanity when four elements are made out:
>
> 1. An enumerated proscribed act was committed (this involves showing that the accused committed the criminal act and had the requisite guilty state of mind for the underlying act);
>
> 2. The act was committed as part of a widespread or systematic attack;
>
> 3. he attack was directed against any civilian population or any identifiable group of persons; and
>
> 4. The person committing the proscribed act knew of the attack and knew or took the risk that his or her act comprised a part of that attack.

[53] In its decision, the RAD stated that the Minister had demonstrated before the RPD that the tests set out in *Mugesera* for characterizing a criminal act as a crime against humanity had been met.

[54] The applicant did not dispute the fact that the organizations for which he worked for 30 years had committed crimes which he characterized as [TRANSLATION] “notorious”.

[55] In its decision, the RPD cites several passages from the objective evidence that establish that the agencies for which the applicant worked committed many crimes against humanity, such as torture, arbitrary detention and extrajudicial execution. For example, the RPD cites a report from Amnesty International that states that many UDPS militants have been arrested and detained in AND jails, where they suffer from [TRANSLATION] “inhumane detention conditions and torture” [RPD Decision at para 35].

[56] The RPD also cited an excerpt from a report by the French Office for Refugees and Stateless Persons (Office français des réfugiés et apatrides) stating that the SNIP was actively involved in the arrest and detention of political opponents. That excerpt also mentions that [TRANSLATION] “informant positions were important, as a lot of people were arrested, imprisoned, tortured and even killed based on their ‘true or false’ information”.

[57] According to other evidence, Amnesty International has received many testimonials from individuals stating that they were tortured or abused while detained by the ANR.

[58] After considering the RPD’s reasons, the RAD adopted them and stated that “the Appellant does not dispute this finding: [TRANSLATION] ‘… the reprehensible acts of those agencies are not challenged, they are notorious …’” [RAD Decision at para 17].

[59] The documentary evidence thus showed that several types of crimes against humanity were committed by those agencies after (and before) the start of the applicant's career with them and throughout his career.

[60] The objective evidence also showed that, over the years and despite name changes, the organization continued to systematically and regularly use violent means of repression against political opponents. The RAD and RPD therefore reasonably concluded that that evidence met the factors set out in *Mugesera*.

[61] The RAD also relied on decisions from this Court that have previously recognized that the intelligence agencies in the DRC had limited and brutal purposes. Indeed, in *Zoya v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16634, the Court stated the following concerning the SNIP:

> 11 The evidence clearly showed that the NIPS is an organization which has perpetrated international offences in the ongoing and everyday course of its activities and its purpose is limited and brutal. ... As the RD noted, it is well-known around the world that the NIPS is a movement that engages in torture. The newspapers have been discussing it since 1990. …
>
> [Emphasis added.]

[62] *Diasonama v Canada (Minister of Citizenship and Immigration)*, 2005 FC 888 (CanLII) also confirmed that the ANR had committed crimes against humanity:

> [23] There was no evidence before the panel that the Applicants were actually involved in any crimes against humanity committed by the ANR; however, it was (successfully) argued by the Respondent that their mere membership in the ANR made them complicit in the atrocities the ANR is said to have committed. That is to say, because of their membership in the ANR, an organization

> with a limited and brutal purpose, they either knew or were wilfully blind to the crimes that were being committed by the ANR; …
>
> [Emphasis added.]

[63] The conclusion by the RPD and the RAD that the tests for crimes against humanity as set out in *Mugesera* have been met is therefore reasonable.

[64] Consequently, I reject the applicant's argument based on *Canada (Public Safety and Emergency Preparedness) v Verbanov*, 2021 FC 507, that the Minister needed to prove the existence of a government policy. The requirement of evidence of such a policy did not exist before the adoption of the Rome Statute and does not apply to facts prior to the coming into force of the Crimes Against Humanity Act.

[65] Thus, contrary to *Verbanov* and the claims put forth by the applicant at the hearing, demonstrating the existence of a policy was not required in this case to find that crimes against humanity were committed, as the facts began in 1987, before the Rome Statute took effect.

[66] Similar to the case at hand, the facts in *Bedi v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1550, took place before and after the Rome Statute took effect, from 1991 to 2016 (at para 4). In that decision, the Court did not apply the requirements from the Rome Statute but instead only the criteria from *Mugesera* to establish that the organization for which the applicant worked, the Punjab Police [PP], had committed crimes against humanity. The requirement that the attack be carried out pursuant to "a State or organizational policy" was not demonstrated as it was not necessary.

[67] Although the Minister was not required to prove that the ANR operated under a government policy of torture, *Diasonama* nonetheless established that the ANR met this test:

> [25] The panel then determined, on the basis of the evidence before it, that the ANR was an organization which committed international offences as a continuous and regular part of its operations. This was on the basis of documentary evidence that showed that the ANR, as a matter of government policy, participated in the systematic detention, torture, disappearance and killing of political opponents of Kabila's regime as a continuous and regular part of its operations. It did not seem to have a purpose other than this. It is to be noted that the Applicants themselves also admitted that ANR did not use normal means in investigating persons or enforcing security and that human rights were not respected. Therefore, the panel determined that the ANR was an organization to which article 1F(a) of the Convention applied. In the circumstances, this a was reasonable conclusion for the panel to reach.
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> [Emphasis added.]

[68] Thus, for crimes committed after 2000, the acts committed by the ANR could *a fortiori* meet the stricter criteria of the definition of crimes against humanity under the Rome Statute but, again, that does not need to be demonstrated in this case.

[69] Therefore, the applicant’s argument that the existence of a government policy was not demonstrated must fail because, in addition to not being required to meet the definition of crimes against humanity, the presence of such a policy has previously been recognized by this Court.

B. *Exclusion under Article 1F(a) of the Convention*

[70] Article 1F(a) of the Convention states that a person cannot benefit from refugee protection if there are serious reasons for considering that he has committed a crime against peace, a war crime or a crime against humanity. [Emphasis added.]

[71] The SCC found in *Ezokola* that evidence of direct participation in the commission of a crime against humanity is not required to find that the exclusion applies (at para 76). In that decision, however, the SCC tightened the test applied in Canada in relation to complicity to define what can actually be considered as "complicit" to avoid having a person be refused refugee protection simply on the grounds of association with those who have committed international crimes. [Emphasis added.]

[72] In this respect, I agree with the applicant's submissions that having been an employee of the agencies in question does not make all employees complicit in the agencies' actions and therefore ineligible for refugee protection. I also agree that the RAD's decision can therefore not be based solely on suspicions. More is needed than mere complicity by association (*Ezokola* at para 53).

[73] However, and this is the RAD's conclusion, anyone can be refused refugee protection under Article 1F(a) of the Convention on the grounds of complicity in committing international crimes when there is a nexus between the individual and the group's crimes or criminal purpose (at para 77). [Emphasis added.]

[74] Such a nexus is established where there are serious reasons for considering that an individual has voluntarily made a significant and knowing contribution to the group's crimes or criminal purpose (at para 8). [Emphasis added.]

[75] The SCC stated the following at paragraphs 84 and 85 of its decision:

> [84] In light of the foregoing reasons, it has become necessary to clarify the test for complicity under art. 1F(a) To exclude a claimant from the definition of "refugee" by virtue of art. 1F(a), there must be serious reasons for considering that the claimant has voluntarily made a significant and knowing contribution to the organization's crime or criminal purpose.
>
> [85] We will address these key components of the contribution-based test for complicity in turn. In our view, they ensure that decision makers do not overextend the concept of complicity to capture individuals based on mere association or passive acquiescence.
>
> [Emphasis added.]

C. *Evidentiary burden for establishing complicity*

[76] As indicated by the applicant, the "evidentiary burden falls on the Minister as the party seeking the applicant's exclusion" (*Ramirez v Canada (Minister of Citizenship and Immigration)*, 1992 CanLII 8540 (FCA), at p. 314; *Ezokola* at para 29). However, the evidentiary burden to be applied to determine whether an individual is complicit in a crime against humanity is lower than that of the balance of probabilities.

[77] In *Ezokola*, the SCC established the specific evidentiary burden for Article 1F(a):

> [101] Ultimately, the above contribution-based test for complicity is subject to the unique evidentiary standard contained in art. 1F(a) of the *Refugee Convention*. To recall, the Board does not make

determinations of guilt. Its exclusion decisions are therefore not based on proof beyond a reasonable doubt nor on the general civil standard of the balance of probabilities. Rather, art. 1F(a) directs it to decide whether there are "serious reasons for considering" that an individual has committed war crimes, crimes against humanity or crimes against peace. For guidance on applying the evidentiary standard, we agree with Lord Brown J.S.C.'s reasons in *J.S.* at para. 39:

> It would not, I think, be helpful to expatiate upon article 1F's reference to there being "serious reasons for considering" the asylum seeker to have committed a war crime. Clearly the tribunal in *Gurung*'s case [2003] Imm AR 115 (at the end of para 109) was right to highlight "the lower standard of proof applicable in exclusion clause cases" — lower than that applicable in actual war crimes trials. That said, "serious reasons for considering" obviously imports a higher test for exclusion than would, say, an expression like "reasonable grounds for suspecting". "Considering" approximates rather to "believing" than to "suspecting". I am inclined to agree with what Sedley LJ said in *Al-Sirri v Secretary of State for the Home Department* [2009] Imm AR 624, para 33:
>
> "[The phrase used] sets a standard above mere suspicion. Beyond this, it is a mistake to try to paraphrase the straightforward language of the Convention: it has to be treated as meaning what it says."

[102] In our view, this unique evidentiary standard is appropriate to the role of the Board and the realities of an exclusion decision addressed above. The unique evidentiary standard does not, however, justify a relaxed application of fundamental criminal law principles in order to make room for complicity by association.

[Emphasis added.]

[78] In *Oberlander v Canada (Attorney General)*, 2018 FC 947 [*"Oberlander"*], the Federal Court summarized how this evidentiary standard is applied as follows:

> 152 The standard of "serious reasons for considering" is therefore more than suspicion, but less than the civil standard of the balance of probabilities. It appears to be close to the "reasonable grounds to believe" from *Ramirez*, but the Supreme Court in *Ezokola* cautions against attempting to paraphrase "serious reasons for considering".

[79] In *Hadhiri v Canada (Minister of Citizenship and Immigration)* [*Hadhiri*], 2016 FC 1284, the Court sets out the role of the RAD in applying this evidentiary standard:

> 38 It is important to stress that the RAD did not need to be satisfied beyond a reasonable doubt of the applicant's complicity by contribution. It was sufficient for it to be satisfied that there were serious reasons for considering the applicant's voluntary, significant and knowing participation in the crimes against humanity committed by the Ministry of the Interior during Ben Ali's reign, a burden of proof lying somewhere between the general civil standard of the balance of probabilities and the minimum standard of mere suspicion (*Ezokola* at paragraph 101). Again, a review of the evidence on the record leads me to find, based on the standard of review required by this Court, which is reasonableness, that the RAD satisfied this burden.

[80] In the case at hand, the RAD had to determine whether the Minister had demonstrated that there were "serious reasons for considering that the [applicant] has voluntarily made a significant and knowing contribution to the organization's crime or criminal purpose" to establish the nexus between the applicant and the crimes, as the applicant did not commit them directly.

[81] The RAD assessed the evidence before it and found that the applicant was not credible because of the many contradictions in his testimony, as well as some of his responses that were

simply implausible (*Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at paras 26, 36). On judicial review, the Court's role is not to reweigh this. Instead, the burden is on the applicant to identify any shortcomings in the legal, logical or factual reasoning of the RAD to show that the finding is unreasonable (*Vavilov* at para 100; *Hadhiri* at para 37).

[82] In my view, the RAD correctly applied the analytical framework set out in *Ezokola.* Contrary to the applicant's claims, the RAD conducted its own analysis of the evidence and relied on the non-comprehensive list of factors to establish the three elements required to apply the complicity test. Contrary to the applicant's submission in paragraph 48 of his memorandum, the RAD therefore applied the [TRANSLATION] "correct test". The RAD's decision is therefore reasonable.

[83] It is important to understand that the fact that the RAD agrees with the findings of the RPD does not mean that it did not conduct an independent analysis of the evidence (*Guo v Canada*, 2017 FC 317 at paras 16–19). Moreover, contrary to the applicant's claims, the RAD relied on all the evidence before it to reach that conclusion. It is therefore not speculation, contrary to what the applicant argues in paragraph 48 of his memorandum.

D. *Complicity*

[84] The applicant stated in his arguments before the Court that, according to *Ezokola*, mere association or passive acquiescence is not enough to find that there is complicity (at paras 81-83).

[85] He notes that the Minister's reasons are based on mere suspicion and that he therefore has not shown on a balance of probabilities serious reasons to consider that the applicant is complicit in the ANR's actions. The applicant alleges that there are no serious grounds to consider that he was involved in or supported the ANR's reprehensible actions.

[86] On the contrary, I find that the RAD reasonably considered the evidentiary burden to be met when it analyzed the respondent's evidence. The RAD did not rely on passive acquiescence or complicity by association to determine the applicant's ineligibility, as warned against by the SCC at para 9 of *Ezokola*.

[87] Contrary to the applicant's claims that the RAD fell into the trap of guilt by association without establishing in fact and in law the applicant's actions beyond his employment, it instead conducted a more restricted analysis of *Ezokola* and the concept of complicity based on a significant and knowing contribution.

[88] In following that analysis, the RAD found that there were serious reasons to consider that the applicant was complicit in crimes against humanity and that the exclusion under section 98 therefore applied. The RAD showed in its reasons that there was a nexus between the applicant and the limited and brutal purpose of the ANR, and that the ANR had committed acts such as those listed in Article 1 of the Convention.

[89] In examining each of the "key components of the contribution-based test for complicity", that is, (1) the voluntary nature of the contribution to the crimes or criminal purpose, (2) the

significant contribution to the crimes or criminal purpose and (3) the knowing contribution to the crimes or criminal purpose, the RAD "ensure[d]", as a decision-maker, that it did not "overextend the concept of complicity to capture individuals based on mere association or passive acquiescence" (*Ezokola* at para 85).

(1) Voluntary contribution

[90] The applicant did not present any submissions concerning the RAD's finding that his contribution to the ANR was voluntary. The record contains sufficient evidence to support the RAD's finding in this respect. This element is therefore established.

(2) Knowing contribution

[91] In his memorandum, the applicant argues that the evidentiary burden required to demonstrate his knowledge and participation in the facts alleged against the ANR has not been established. The applicant also submits that the RAD found that he contributed because he acknowledged that his behaviour could be characterized as passive acquiescence.

[92] He also submits that the RAD did not consider the evidence in the record because, in his view, it is clear that the reprehensible actions of the ANR were committed by other operational departments within the ANR, not his department. He also states that the crimes committed by the ANR are why he left the agency to claim refugee protection in Canada in 2017.

[93] In my view, the RAD considered the abundant evidence in the record, including his testimony, to conclude that the applicant's contribution was knowing. The RAD's conclusion concerning the applicant's knowledge is based on numerous contradictions in his testimony, as well as some responses that are not credible, in particular concerning the responsibilities the applicant said he had, even though he held the third-highest position in the ANR hierarchy. Those conclusions are reasonable.

[94] At paragraph 89, *Ezokola* establishes that "[t]o be complicit in crimes committed by the government, the official must be aware of the government's crime or criminal purpose and aware that his or her conduct will assist in the furtherance of the crime or criminal purpose". At paragraph 94 of *Ezokola*, the SCC states that where a "group is … one with a limited and brutal purpose, the link between the contribution and the criminal purpose will be easier to establish". In the case at hand, the documentary evidence in the record established that the agencies for which the applicant worked for over 30 years systematically committed crimes against humanity. As a result, "a decision maker may more readily infer that the accused had knowledge of the group's criminal purpose and that his conduct contributed to that purpose" (para 94). [Emphasis added.]

[95] Indeed, it is important to note again that the applicant does not question the fact that those organizations committed heinous crimes. In fact, although the applicant stated at the hearing that he did not know that the ANR had tortured people and had carried out extrajudicial executions, he acknowledged that it is well known that the ANR had taken part in extrajudicial arrests but did not indicate which department carried out such activities.

[96] The RAD notes in its decision that the applicant's testimony was inconsistent and changed when he was asked certain questions about the crimes committed by his employer. He first denied knowing that the intelligence services for which he worked committed arbitrary arrests, tortures and other crimes. However, he later stated that he had heard on Radio France Internationale that the ANR was violating human rights. The RAD also found that the fact that the applicant had admitted that his behaviour could be characterized as passive acquiescence supported that conclusion and meant that it was more likely than not that the applicant knew of the limited and brutal purpose of the organizations for which he worked. The RAD found that the applicant was not credible and that he therefore made a knowing contribution.

[97] In addition, although the applicant reiterated many times at the hearing that he had not read the reports produced by international organizations concerning human rights violations by the ANR, as that [TRANSLATION] "was not part of … my assignments", the RPD and RAD both found that the applicant was not credible when he stated that he did not know any more about the excesses committed against the people of the DRC by the intelligence agencies for which he worked for over 30 years.

[98] As established in *Lawal v Canada (Citizenship and Immigration)*, 2010 FC 558 at paras 19–25, an administrative tribunal like the RPD can judge an applicant's credibility, and the Court must defer to such a finding (see also *Bedi v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1550 at paras 11, 27). The RPD and the RAD could therefore reasonably make a negative inference concerning the applicant's credibility based on the inconsistency and implausibility of his statements. Moreover, the evidence in the record shows

that the crimes committed by the DRC intelligence agencies were denounced by the international community before the applicant even joined the agencies.

[99] In addition, in *Zoya v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 16634, and beginning in 2000, the Federal Court found that it was reasonable to conclude that an applicant was actually aware of the offences by the SNIP, the organization that preceded the ANR and of which the applicant was a part, despite his contradictory testimony:

> 11 The evidence clearly showed that the NIPS is an organization which has perpetrated international offences in the ongoing and everyday course of its activities and its purpose is limited and brutal. The plaintiff admitted that he was a member of the NIPS for five years (in the PIF and his oral evidence). Although he maintained that he had no knowledge of these activities, the Court is persuaded that it was reasonable for the RD to draw a contrary conclusion. As the RD noted, it is well-known around the world that the NIPS is a movement that engages in torture. The newspapers have been discussing it since 1990. It is not probable that the plaintiff was unaware of the NIPS's activities, as knowledge of these repressive activities was widespread, and especially in view of the fact that he worked in the organization for an extended period. The plaintiff continued performing his duties for several years before deciding to flee, instead of disassociating himself from the organization at the first possible opportunity. In my opinion, he was an accomplice and therefore reasonably excluded. The conclusion is based on the evidence and it is reasonable. Consequently, the RD did not erred in concluding that the plaintiff was accepted under art. 1F(a) of the Convention.
>
> [Emphasis added.]

[100] In this case, and as in *Zoya*, the RAD's conclusion that the applicant is not credible concerning his lack of knowledge of the activities of the agencies for which he worked for 30 years is reasonable. Indeed, that argument applies *a fortiori* to the applicant in this case, who worked for the ANR (and previously for the SNIP and AND) for over 30 years because, in *Zoya*,

the Court found that such a conclusion was reasonable for an applicant who had worked for the SNIP for only 5 years.

[101] Indeed, the SCC established in *Ezokola* that "[i]t may be easier to establish complicity where an individual has been involved with the organization for a longer period of time":

> [98] *The length of time the refugee claimant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose.* It may be easier to establish complicity where an individual has been involved with the organization for a longer period of time. This would increase the chance that the individual had knowledge of the organization's crime or criminal purpose. A lengthy period of involvement may also increase the significance of an individual's contribution to the organization's crime or criminal purpose.

[102] In the case at hand, given the positions that the applicant held, the length of his career with the intelligence services and the limited and brutal purposes of the organization for which he worked, it was reasonable for the RAD to conclude that there were serious reasons to believe that the applicant was complicit in crimes against humanity, as he is an educated man, and that he knew that the agencies for which he worked had widely and systematically committed heinous crimes.

[103] Finally, although the applicant defends himself by alleging the compartmentalization of tasks and information at the ANR, in *Hadhiri*, Leblanc J noted that, in the case of crimes against humanity, citing the principle of compartmentalization is not a valid defence:

> [35] I fully agree with Mr. Justice Pinard's comments in *Uriol Castro v Canada (Citizenship and Immigration)*, 2011 FC 1190 [*Uriol Castro*], who noted that in the commission of crimes against humanity, "responsibilities and tasks are compartmentalized so that each perpetrator can claim ignorance." To address this reality,

> wrote Pinard J., the law "is designed to declare complicit not only those directly ordering or carrying out the acts of violence, but also those who choose to remain ignorant as to the consequences of their seemingly meaningless acts" (*Uriol Castro* at paragraph 16).

[104] Thus, contrary to the applicant's claim, the fact that he was not in a [TRANSLATION] "department that carried out such activities" (referring to crimes against humanity) and pleading ignorance are not relevant defences, as the agency is specifically designed to try to circumvent the purpose of a law that is intended to impose consequences on those who commit such crimes.

(3) Significant contribution

[105] As stated in *Hadhiri* at para 37, it is important to point out "that it is not for the Court to decide whether the applicant has made a significant and knowing contribution to the crimes against humanity" committed by the ANR and its predecessors. Its role is instead to determine whether it was reasonable for the RAD to arrive at that conclusion (see also *Mata Mazima v Canada (Citizenship and Immigration),* 2016 FC 531 at para 54) [*"Mata Mazima"*].

[106] The applicant argues that he was a government employee and that not all employees are complicit in the acts of the intelligence agencies. He submits that such an approach is contrary to the law and amounts to the guilt by association warned against by the SCC in *Ezokola.*

[107] The applicant submits that he instead showed passive acquiescence because he did not try to inquire about the agencies' illegal actions, not willful blindness, contrary to what the Minister claims. The applicant therefore alleges that he did not make a significant contribution to the limited and brutal purpose of the ANR.

[108] I do not agree with the applicant's arguments. First, it must be pointed out that, in *Ezokola*, the SCC clarified the circumstances in which mere association becomes complicity:

> [87] In our view, mere association becomes culpable complicity for the purposes of art. 1F(a) when an individual makes a *significant* contribution to the crime or criminal purpose of a group. As Lord Brown J.S.C. said in *J.S.*, to establish the requisite link between the individual and the group's criminal conduct, the accused's contribution does not have to be "directed to specific identifiable crimes" but can be directed to "wider concepts of common design, such as the accomplishment of an organisation's purpose by whatever means are necessary including the commission of war crimes": para. 38. This approach to art. 1F(a) is consistent with international criminal law's recognition of collective and indirect participation in crimes discussed above, as well as s. 21(2) of the Canadian *Criminal Code*, R.S.C. 1985, c. C-46, which attaches criminal liability based on assistance in carrying out a common unlawful purpose.
>
> [88] Given that contributions of almost every nature to a group could be characterized as furthering its criminal purpose, the degree of the contribution must be carefully assessed. The requirement of a significant contribution is critical to prevent an unreasonable extension of the notion of criminal participation in international criminal law.
>
> [Emphasis added.]

[109] A significant contribution has been interpreted several times following *Ezokola*. For example, in *Khudeish v Canada (Minister of Citizenship and Immigration)*, 2020 FC 1124, the Court explained:

> 76 The RAD reasonably conclude that the PLO had a criminal purpose based on the evidence that was presented. Ms. Khudeish did not contradict this evidence with documentary evidence. The RAD's finding that the Palestine Martyrs' Families Foundation was created by the PLO to fulfill the criminal purpose of incentivising acts of terrorism against Israelis is supported by the evidentiary record.
>
> 77 There is no question that Ms. Khudeish's employment was voluntary, and she did not argue otherwise.

> 78 The RAD did explain which of Ms. Khudeish's duties it retained amongst the different versions she presented, and, as mentioned above, the jurisprudence from the Court confirmed it was open to the RAD to proceed as it did. The RAD referred to the evidentiary record to find that the widows and orphans who received the payments were "family members of terrorists" who committed unlawful violent acts and killings. Given the nature of Ms. Khudeish's duties and the nature of the payments, it was not unreasonable for the RAD to find they amounted to the level of a significant contribution to the criminal purpose of the organisation.
>
> 79 Finally, the RAD reasonably applied the factors laid out by the Supreme Court in Ezokola to find that Ms. Khudeish made a knowing contribution to the PLO. The RAD focussed on the nature of the organisation, i.e. the Palestine Martyrs' Families Foundation, which the RAD found had a single purpose, which was of a criminal nature. The RAD also noted that the relevant programs had existed for many decades, and that Ms. Khudeish had been employed by the organisation for 22 years. These three factors are included in the list provided at paragraph 91 of *Ezokola*.
>
> 80 I have therefore not been convinced the decision of the RAD is unreasonable. 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). The Applicant has not convinced me that the determination is unreasonable in terms of either the outcome or the process.
>
> [Emphasis added.]

[110] As in that case, the applicant in the case at hand did not dispute the fact that the organization for which he worked had a criminal purpose and he worked there for 30 years. The RAD also considered the applicant's significant duties within the organization in finding that he had made a significant contribution. The RAD's analysis is coherent and rational.

[111] In the case at hand, the RPD and the RAD found that the applicant's testimony was inconsistent and not credible because of numerous contradictions.

[112] For example, the applicant alleged that he did not know about the ANR's activities because of the principle of compartmentalization, whereby each department is unaware of the activities of other departments. However, in his BOC Form, the applicant stated that he took part in an assessment meeting organized by the Director General of the ANR and attended by all central and assistant directors to discuss the political situation in the country, which is contrary to the applicant's statements asserting that the agency operated on a strict compartmentalization basis. The evidence presented in the BOC Form is therefore inconsistent with his testimony before the RPD, which allowed the administrative tribunal to reach a negative finding.

[113] Moreover, despite his allegation of "compartmentalization" of the various branches of the ANR, and of his solely administrative responsibilities, the applicant stated that the DRC government delegated to him the sensitive task of accompanying a delegation of UN investigators and journalists during an international investigation into the discovery of a mass grave because he had an all-terrain vehicle.

[114] The RPD and the RAD found it to be inconsistent that the applicant was chosen for a task as sensitive as the discovery of a mass grave because he was the only person with an all-terrain vehicle. The RPD and the RAD both found that the applicant lacked credibility concerning the fact that his duties as Second Assistant Director consisted of following up on agents' leave requests and buying food for dinner for the guards. According to the RAD, it seems unlikely that the DRC government decided to assign such an important task to someone with such minimal responsibilities.

[115] Finally, the applicant was selected by his government to take part in an international conference on the aviation industry held in Dakar, and then in Montréal, as the sole ANR representative on the DRC delegation. Those mandates also support the fact that the applicant had a more important position than he seems to suggest.

[116] In his testimony before the RPD, the applicant stated that he did not know why he was selected to attend those international conferences. The RPD and RAD did not find that response to be credible since it is inconsistent for the DRC government to decide to send an ANR representative to be on an international delegation in a sensitive sector like national security (identification of international travellers), but for him to have absolutely no operational knowledge of the agency. Moreover, if there were truly "compartmentalization", those important official duties would probably not be delegated to the applicant.

[117] The RPD and RAD therefore found that the applicant had been chosen because of the important nature of his position, his knowledge of the agency and his past experience. That conclusion is reasonable because it is defensible in respect of the facts and law (*Vavilov* at para 86). Indeed, it is clear from a holistic and contextual reading of the reasons that they bear the hallmarks of reasonableness (*Vavilov* at paras 97 and 99).

[118] For example, in *Oberlander*, the Court found that, as an interpreter for the Nazis, the applicant had "facilitated the screening process for executions and served an important step towards the realization of Ek 10a's criminal purpose. Given Ek 10a's unique nature, there was no other purpose to interpretation during interrogation other than to fulfill the group's deadly

mandate. The applicant's occasional involvement as an interpreter in interrogation of those suspected of anti-German sentiments and activities contributed significantly to Ek 10a's crimes or criminal purpose" (para 66). [Emphasis added.]

[119] Although the applicant's duties in this case were not those of an interpreter, it can be imagined that, by taking part in counter-espionage activities, particularly monitoring journalists and identifying individuals they met with, and by representing the ANR at international meetings, he "contributed significantly to the criminal purpose" of the ANR, particularly as he held an important position within the organization.

[120] The applicant also stated in his testimony that, when he was hired as a [TRANSLATION] "low-ranking agent" in the counter-intelligence division of the AND in 1987, one of his first tasks was to monitor the embassies of African countries in Kinshasa and gather intelligence about the people who were there in order to identify foreign employees. After the war in 1997, he then [TRANSLATION] "monitored" newcomers. Then, when he was the head of the surveillance division, the applicant created surveillance teams for international reporters at the borders. He also had to identify Congolese residents who met with foreigners. He even cited the example of a member of the UDPS who had met with Belgian journalist Colette Braekman.

[121] Although the applicant denied knowing how the reports that he sent to his director had been used, it is clear from the objective evidence in that respect that the ANR had been persecuting and torturing members of the UDPS for a long time. It can thus be imagined that, in

carrying out his duties, the applicant had to at least question the reasons for gathering that information.

[122] In light of the evidence before it, including the applicant's testimony, the RAD could reasonably conclude that the applicant's contribution to the crimes committed by the intelligence agencies was significant. The RAD examined all the factors for determining the applicant's complicity in accordance with the *Ezokola* test. I see nothing in its analytical approach or its handling of the evidence that would justify the Court's intervention (*Mata Mazima* at para 37).

VIII. Conclusion

[123] In light of the evidence in the record, it was reasonable for the RAD to conclude that there were reasonable grounds to believe that the applicant made a knowing, voluntary and significant contribution to the brutal purpose of the ANR. The RAD's decision that the applicant is not a "Convention refugee" or a "person in need of protection" under sections 96 and 97 of the IRPA and Article 1 of the Convention is therefore reasonable.

[124] For all these reasons, the application for judicial review will be dismissed.

[125] The parties did not propose any questions of general importance to be certified.

JUDGMENT in IMM-718-22

THIS COURT ORDERS as follows:

1. The application for judicial review is dismissed.

2. No question of general importance is certified.

"Guy Régimbald"
Judge

Certified true translation
Michael Palles

FEDERAL COURT

SOLICITORS OF RECORD

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APPEARANCES:

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