

Federal Court



Cour fédérale

Date: 20240603

Docket: IMM-5459-23

Citation: 2024 FC 835

Ottawa, Ontario, June 3, 2024

**PRESENT:** Madam Justice Azmudeh

**BETWEEN:**

**BEHJAT TAVAJJOHI  
MOHAMMAD ALI BAHARSHAHI  
SHAINA BAHARSHAHI  
ARSHAN BAHARSHAHI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Overview

[1] Behjat Tavajjohi [the “PA”], her spouse Mohammad Ali Baharshahi and their children [together, the “Applicants”], are seeking a Judicial Review under section 72(1) of the *Immigration and Refugee Protection Act* [IRPA] concerning the rejection of their various temporary residence visas. The Judicial Review is dismissed for the following reasons.

[2] Since the reasons to reject the applications for all based on the refusal of the PA's study permit application, the cases were joined and I deal with them together here.

## II. Factual Background

[3] The Applicants are citizen of Iran. The PA has applied for a Study Permit to study at Trinity Western University in British Columbia to obtain a Masters of Arts in Leadership, Education K-12 program. Her spouse and children wished to accompany her during her studies, her spouse on a work permit and the children on temporary resident visas.

[4] The PA had previously earned a Master's degree in Business Administration (MBA). Her career in the past twenty year has been exclusively in banking, mostly in leadership positions. She has developed educational plans for the banking staff and has contributed to raising the overall rates of education amongst banking staff.

[5] The PA had also included an employment letter from an engineering company that stated she wanted to pursue a job opportunity in human resources and employee training manager on the condition that she graduated from a North American university with a leadership degree.

[6] The PA had also stated in her study plan that it was her goal to establish an educational institute offering special qualification for training the employees of all public and private organizations in the country.

[7] The Officer reviewing the application (the “Officer”) refused the application on multiple grounds concluding that the PA had not demonstrated that she would leave Canada after her authorized stay. The reasons cited in the letter was lack of significant family ties outside Canada, and in their notes, the Officer had mainly raised doubt about the PA’s study plan because it did not demonstrate a benefit. The Officer’s analysis of the PA’s application is set out in Global Case Management System [“GCMS”] notes as follows:

I have reviewed the application. I have considered the following factors in my decision. PA is traveling with their spouse and two children, I have concerns that the ties to Iran are not sufficiently great to motivate departure from Canada. The ties to Iran are weakened with the intended travel to Canada by the client as the travel involves their immediate family; the motivation to return will diminish with the applicant's immediate family members residing with them in Canada. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Applicant is applying for a study permit to attend Trinity Western University in MA in Leadership, Education. **The client's previous studies were in an unrelated field. The client's previous employment and educational history demonstrate an inconsistent career progression. The client has previous studies at the same academic level as the proposed studies in Canada. Previous university studies in Master of Business Administration. Currently employed as a Head of Education and Research Division. Client’s explanation letter reviewed. PA does not demonstrate to my satisfaction reasons for which the international educational program would be of benefit. Given the PA’s previous education and work history, their motivation to pursue studies in Canada at this point does not seem reasonable.** 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.

**(My emphasis)**

[8] The decision, which was dated March 13, 2023, involved the refusal of the PA’s application for a Study Permit under section 216(1) of the *Immigration and Refugee Protection*

*Regulations* [IRPR]. Additionally, the refusal directly affected her spouse and children who had applied for a work permit and temporary resident visas respectively to accompany the PA.

III. Issues and Standard of Review

[9] This Application for Judicial Review raises two main issues:

- A. Was the Officer's decision unreasonable?
- B. Was there a breach of procedural fairness?

[10] Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], at paras 12-13 and 15; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21[*Mason*], at paras 8 and 63.

[11] I have started by reading the reasons of the decision maker in conjunction with the record that was before them holistically and contextually. As guided by *Vavilov*, at paras 83, 84 and 87, as the judge in reviewing court, I have focused on the reasoning process used by the decision maker. I have not considered whether the decision maker's decision was correct, or what I would do if I were deciding the matter itself: *Vavilov*, at para 83; *Canada (Justice) v D.V.*, 2022 FCA 181, at paras 15 and 23.

[12] A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law that constrained the decision maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33, 61; *Mason*, at paras 8, 59-61, 66. For a decision to be unreasonable, the applicant must establish the decision contains flaws that

are sufficiently central or significant (*Vavilov*, at para 100). Not all errors or concerns about a decision will warrant intervention.

[13] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 [*Canadian Pacific Railway Company*] at paras 37-56; *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35)). The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 at paragraphs 21-28 (*Canadian Pacific Railway Company*, at para 54).

#### IV. Legislative Overview

[14] The relevant legislative overview is included in an Annex.

#### V. Analysis

##### A. *Was the Officer's decision reasonable?*

[15] On a study permit application, the applicant must establish that they meet the requirements of the IRPA and the IRPR. Visa officers have a wide discretion in their assessment of the application and the Court ought to provide considerable deference to an officer's decision given the level of expertise they bring to these matters. The onus is on the Applicant who seeks temporary entry to Canada to establish and satisfy a visa officer that they will leave Canada at the end of the authorized period of stay requested.

[16] In addition, in assessing the reasonableness of the decision, the Court recognizes that the high volume of visa decisions and the narrow consequences of a refusal are such that extensive reasons are not required: *Vavilov* at paras 88 and 91; *Lingepo v Canada (Citizenship and Immigration)*, 2021 FC 552 at para 13; *Yuzer v Canada (Citizenship and Immigration)*, 2019 FC 781 [*Yuzer*] at paras 9 and 16; *Wang v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1298 at paras 19 and 20. Nonetheless, the reasons given by the officer must, when read in the context of the record, adequately explain and justify why the application was refused: *Yuzer* at paras 9 and 20; *Hashemi v Canada (Citizenship and Immigration)*, 2022 FC 1562 [*Hashemi*] at para 35; *Vavilov* at paras 86, 93–98.

#### VI. Study Plan

[17] While the Officer cites family ties as one of the reasons for the refusal, I find that what they found to be the determinative issue was not seeing an added benefit from the PA's study plan. For the reasons that follow, I find that the Officer's reasons were responsive to the materials the PA had filed and offered a brief but clear chain of reasoning that rendered it intelligible, transparent and justifiable. Since the Officer's reasons on the determinative issue was reasonable, I need not deal with the family ties.

[18] The Officer questioned the PA's purpose to study in Canada and its benefit. The PA had been accepted in a Master's program in K-12 education leadership in Canada. This is when there was nothing in her study plan to suggest how her career trajectory or future plans were related to K-12 education. The PA's study plan already showed strong teaching and leadership experience at Mellat bank, which the Officer recognized when they stated: "Currently employed as a Head

of Education and Research Division”. Her future plan involved work in the Human Resources and educational plans of an engineering company and a grand aspiration to train teachers for all public and private institutions in the country. There was nothing in the study plan to suggest how a K-12 educational leadership position would be relevant to those aspirations or career goals. It was in this context that the Officer’s emphasis on the PA’s existing master’s degree or achievement in educational leadership showed a reasonable engagement with the materials before them. Simply put, it was because it was not clear how another degree in K-12 program would add anything to the Applicant’s already stellar career or aspiration.

[19] This is significantly different than my recent decision in *Shirazi v Canada (MCI)*, 2024 FC 822 [*Shirazi*]. In *Shirazi*, the Applicants’ submissions clearly demonstrated an added benefit to the PA’s career aspirations, which the officer had ignored both implicitly and explicitly.

[20] I acknowledge that a decision-maker is generally not required to make an explicit finding on each piece of evidence when reaching its final decision. I also acknowledge that an implicit consideration of evidence could be sufficient (*Zeifmans LLP v Canada*, 2022 FCA 160, at para 10). In the context explained, the Officer implicitly considered the evidence at hand.

[21] As for whether the Officer’s reasons for decision were sufficient, a visa officer has a minimal duty to give reasons for a denied TRV application, as long as the reviewing court can understand why the officer made the decision: *Zhou v Canada (Citizenship and Immigration)*, 2013 FC 465, at para 21; *Singh v Canada (Citizenship and Immigration)*, 2009 FC 621, at para 9;

*Alkhaldi v Canada (MCI)*, 2019 FC 584, at para 17 [*Alkhaldi*]). In this case, the Officer engaged with the materials articulated that there was no clear benefit in the proposed education.

[22] Turning to the rest of the family, as I read the Decision, the Officer's conclusions in relation to their applications for a work permit and visitor visa flow from the conclusions in relation to the PA's study permit. Therefore, based on my finding that the Decision is reasonable in relation to the PA, it is also reasonable in relation to the other Applicants.

B. *Did the Officer reach their decision in a procedurally fair manner?*

[23] The Applicants argue that the Officer's lack of engagement with their material, especially the study plan, amounted to a breach of procedural fairness. I disagree. The Applicants bear the onus of providing the Officer with sufficient credible evidence that there is a benefit to her at the conclusion of her studies. The evidence included acceptance into a Master's program for K-12 educational leadership program while already having an MBA, stellar leadership positions at Mellat Bank, including those related to adult education, further potential employment at an engineering company and a great aspiration to set up an educational institution in charge of training teachers. The Officer cannot be faulted for not seeing how the proposed education would benefit the PA's career path, and they explained it. I find that the insufficiency of the Applicant's explanation to help the Officer see a benefit does not amount to a breach of procedural fairness. Nor did the Officer engage in a veiled credibility assessment for which they needed to alert the Applicants.



VII. Conclusion

[24] The application for judicial review is dismissed.

[25] Neither party proposed a question for certification and I agree that none arises in this matter.

## ANNEX

*Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA]***Application before entering Canada**

**11 (1)** A foreign national must, before entering Canada, apply to an officer for a visa or for any other document required by the regulations. The visa or document may be issued if, following an examination, the officer is satisfied that the foreign national is not inadmissible and meets the requirements of this Act.

**Electronic travel authorization**

(1.01) Despite subsection (1), a foreign national must, before entering Canada, apply for an electronic travel authorization required by the regulations by means of an electronic system, unless the regulations provide that the application may be made by other means. The application may be examined by an officer and, if the officer determines that the foreign national is not inadmissible and meets the requirements of this Act, the authorization may be issued by the officer.

**Restriction**

**(1.1)** A designated foreign national may not make an application for permanent residence under subsection (1)

**(a)** if they have made a claim for refugee protection but have not made an application for protection, until five years after the day on which a final determination in respect of the claim is made;

**(b)** if they have made an application for protection, until five years after the day on which a final determination in respect of the application is made; or

**(c)** in any other case, until five years after the day on which they become a designated foreign national.

**Visa et documents**

11 (1) L'étranger doit, préalablement à son entrée au Canada, demander à l'agent les visa et autres documents requis par règlement. L'agent peut les délivrer sur preuve, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi.

**Autorisation de voyage électronique**

**(1.01)** Malgré le paragraphe (1), l'étranger doit, préalablement à son entrée au Canada, demander l'autorisation de voyage électronique requise par règlement au moyen d'un système électronique, sauf si les règlements prévoient que la demande peut être faite par tout autre moyen. S'il décide, à la suite d'un contrôle, que l'étranger n'est pas interdit de territoire et se conforme à la présente loi, l'agent peut délivrer l'autorisation.

**Réserve**

**(1.1)** L'étranger désigné ne peut présenter une demande de résidence permanente au titre du paragraphe (1) que si cinq années se sont écoulées depuis l'un ou l'autre des jours suivants :

**a)** s'il a fait une demande d'asile sans avoir fait de demande de protection, le jour où il a été statué en dernier ressort sur sa demande d'asile;

**b)** s'il a fait une demande de protection, le jour où il a été statué en dernier ressort sur cette demande;

**c)** dans les autres cas, le jour où il devient un étranger désigné.

**Suspension de la demande**

**(1.2)** La procédure d'examen de la demande de résidence permanente présentée au titre du paragraphe (1) par un étranger qui devient, à la suite de cette demande, un étranger désigné est

### **Suspension of application**

(1.2) The processing of an application for permanent residence under subsection (1) of a foreign national who, after the application is made, becomes a designated foreign national is suspended

(a) if the foreign national has made a claim for refugee protection but has not made an application for protection, until five years after the day on which a final determination in respect of the claim is made;

(b) if the foreign national has made an application for protection, until five years after the day on which a final determination in respect of the application is made; or

(c) in any other case, until five years after the day on which the foreign national becomes a designated foreign national.

### **Refusal to consider application**

(1.3) The officer may refuse to consider an application for permanent residence made under subsection (1) if

(a) the designated foreign national fails, without reasonable excuse, to comply with any condition imposed on them under subsection 58(4) or section 58.1 or any requirement imposed on them under section 98.1; and

(b) less than 12 months have passed since the end of the applicable period referred to in subsection (1.1) or (1.2).

### **If sponsor does not meet requirements**

(2) The officer may not issue a visa or other document to a foreign national whose sponsor does not meet the sponsorship requirements of this Act.

### **Obligation on entry**

20 (1) Every foreign national, other than a foreign national referred to in section 19, who seeks to enter or remain in Canada must establish,

(a) to become a permanent resident, that they hold the visa or other document required under

suspendue jusqu'à ce que cinq années se soient écoulées depuis l'un ou l'autre des jours suivants :

a) si l'étranger a fait une demande d'asile sans avoir fait de demande de protection, le jour où il a été statué en dernier ressort sur la demande d'asile;

b) s'il a fait une demande de protection, le jour où il a été statué en dernier ressort sur cette demande;

c) dans les autres cas, le jour où il devient un étranger désigné.

### **Refus d'examiner la demande**

(1.3) L'agent peut refuser d'examiner la demande de résidence permanente présentée au titre du paragraphe (1) par l'étranger désigné si :

a) d'une part, celui-ci a omis de se conformer, sans excuse valable, à toute condition qui lui a été imposée en vertu du paragraphe 58(4) ou de l'article 58.1 ou à toute obligation qui lui a été imposée en vertu de l'article 98.1;

b) d'autre part, moins d'une année s'est écoulée depuis la fin de la période applicable visée aux paragraphes (1.1) ou (1.2).

### **Cas de la demande parrainée**

(2) Ils ne peuvent être délivrés à l'étranger dont le répondant ne se conforme pas aux exigences applicables au parrainage.

### **Obligation à l'entrée au Canada**

20 (1) L'étranger non visé à l'article 19 qui cherche à entrer au Canada ou à y séjourner est tenu de prouver :

a) pour devenir un résident permanent, qu'il détient les visa ou autres documents réglementaires et vient s'y établir en permanence;

the regulations and have come to Canada in order to establish permanent residence; and  
**(b)** to become a temporary resident, that they hold the visa or other document required under the regulations and will leave Canada by the end of the period authorized for their stay.  
 [...]

### **Right of temporary residents**

**29 (1)** A temporary resident is, subject to the other provisions of this Act, authorized to enter and remain in Canada on a temporary basis as a visitor or as a holder of a temporary resident permit.

### **Obligation — temporary resident**

**(2)** A temporary resident must comply with any conditions imposed under the regulations and with any requirements under this Act, must leave Canada by the end of the period authorized for their stay and may re-enter Canada only if their authorization provides for re-entry.

### **Extended period**

**(3)** In the case of a temporary resident who is authorized to enter and remain in Canada for an extended period in order to visit a Canadian citizen or permanent resident who is their child or grandchild, the period referred to in subsection (2) is five years.

## *Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR]*

### **Issuance**

**179** An officer shall issue a temporary resident visa to a foreign national if, following an examination, it is established that the foreign national

- (a)** has applied in accordance with these Regulations for a temporary resident visa as a member of the visitor, worker or student class;
- (b)** will leave Canada by the end of the period authorized for their stay under Division 2;
- (c)** holds a passport or other document that they may use to enter the country that issued it or another country;

**b)** pour devenir un résident temporaire, qu'il détient les visa ou autres documents requis par règlement et aura quitté le Canada à la fin de la période de séjour autorisée.  
 [...]

### **Droit du résident temporaire**

**29 (1)** Le résident temporaire a, sous réserve des autres dispositions de la présente loi, l'autorisation d'entrer au Canada et d'y séjourner à titre temporaire comme visiteur ou titulaire d'un permis de séjour temporaire.

### **Obligation du résident temporaire**

**(2)** Le résident temporaire est assujéti aux conditions imposées par les règlements et doit se conformer à la présente loi et avoir quitté le pays à la fin de la période de séjour autorisée. Il ne peut y rentrer que si l'autorisation le prévoit.

### **Longue période**

**(3)** Dans le cas du résident temporaire autorisé à entrer au Canada et à y séjourner pendant une longue période afin de rendre visite à son enfant ou son petit-enfant qui est citoyen canadien ou résident permanent, la période mentionnée au paragraphe (2) est de cinq ans.

### **Délivrance**

**179** L'agent délivre un visa de résident temporaire à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

- a)** l'étranger en a fait, conformément au présent règlement, la demande au titre de la catégorie des visiteurs, des travailleurs ou des étudiants;
- b)** il quittera le Canada à la fin de la période de séjour autorisée qui lui est applicable au titre de la section 2;

(d) meets the requirements applicable to that class;

(e) is not inadmissible;

(f) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(g) is not the subject of a declaration made under subsection 22.1(1) of the Act.

### Study permits

**216 (1)** Subject to subsections (2) and (3), an officer shall issue a study permit to a foreign national if, following an examination, it is established that the foreign national

(a) applied for it in accordance with this Part;

(b) will leave Canada by the end of the period authorized for their stay under Division 2 of Part 9;

(c) meets the requirements of this Part;

(d) meets the requirements of subsections 30(2) and (3), if they must submit to a medical examination under paragraph 16(2)(b) of the Act; and

(e) has been accepted to undertake a program of study at a designated learning institution.

### Exception

(2) Paragraph (1)(b) does not apply to persons described in section 206 and paragraphs 207(c) and (d).

### Study in Quebec

(3) An officer shall not issue a study permit to a foreign national who intends to study in the Province of Quebec — other than under a federal assistance program for developing countries — and does not hold a *Certificat d'acceptation du Québec*, if the laws of that Province require that the foreign national hold a *Certificat d'acceptation du Québec*.

c) il est titulaire d'un passeport ou autre document qui lui permet d'entrer dans le pays qui l'a délivré ou dans un autre pays;

d) il se conforme aux exigences applicables à cette catégorie;

e) il n'est pas interdit de territoire;

f) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

g) il ne fait pas l'objet d'une déclaration visée au paragraphe 22.1(1) de la Loi.

### Permis d'études

**216 (1)** Sous réserve des paragraphes (2) et (3), l'agent délivre un permis d'études à l'étranger si, à l'issue d'un contrôle, les éléments suivants sont établis :

a) l'étranger a demandé un permis d'études conformément à la présente partie;

b) il quittera le Canada à la fin de la période de séjour qui lui est applicable au titre de la section 2 de la partie 9;

c) il remplit les exigences prévues à la présente partie;

d) s'il est tenu de se soumettre à une visite médicale en application du paragraphe 16(2) de la Loi, il satisfait aux exigences prévues aux paragraphes 30(2) et (3);

e) il a été admis à un programme d'études par un établissement d'enseignement désigné.

### Exception

(2) L'alinéa (1)b) ne s'applique pas aux personnes visées à l'article 206 et aux alinéas 207c) et d).

### Études au Québec

(3) Le permis d'études ne peut être délivré à l'étranger qui cherche à étudier dans la province de Québec — autrement que dans le cadre d'un programme fédéral d'aide aux pays en voie de développement — et qui ne détient pas le certificat d'acceptation exigé par la législation de cette province.

**JUDGMENT IN IMM-3153-23**

**THIS COURT'S JUDGMENT is that**

1. The Judicial Review is dismissed.
2. There is no certified question.

"Negar Azmudeh"  
\_\_\_\_\_  
Judge

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

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**PLACE OF HEARING:** ZOOM CONFERENCE

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**DATED:** JUNE 3, 2024

**APPEARANCES:**

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