

Federal Court



Cour fédérale

**Date: 20240725**

**Docket: IMM-4433-23**

**Citation: 2024 FC 1169**

**Vancouver, British Columbia, July 25, 2024**

**PRESENT: Mr. Justice Norris**

**BETWEEN:**

**LEILI KASHFI AND RAYAN BADEGHAT**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Leili Kashfi is a 42-year-old citizen of Iran. She wishes to come to Canada to study in the English Learning Program at Centennial College in Toronto for a year, to be followed by a three-year program in Business Administration Finance, also at Centennial College. After being offered admission by Centennial College, the applicant applied for a study permit for herself as well as a visitor visa for her eight-year-old son, Rayan Badeghat, who would be accompanying her to Canada.

[2] A visa officer with Immigration, Refugees and Citizenship Canada refused the study permit application in a decision dated March 29, 2023, because Ms. Kashfi had not established that she would leave Canada by the end of the period authorized for her stay, as required by paragraph 216(1)(b) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227. The visitor visa application for her son was wholly dependent on the success of her application.

[3] The applicants have applied for judicial review of this decision under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IRPA*). They submit that the decision is unreasonable and that it was not made in accordance with the requirements of procedural fairness.

[4] As I will explain, the applicants have not persuaded me that there is any basis to interfere with the officer's decision. While the decision is far from perfect, there is a reasonable basis for the officer's ultimate conclusion. Since the applicants' procedural fairness submissions do not relate to this ground for refusing the study permit application, it is not necessary to address those submissions.

[5] The parties agree, as do I, that the officer's decision is to be reviewed on a reasonableness standard. A reasonable decision "is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision maker" (*Canada (Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85). A decision will be unreasonable when the reasons "fail to provide a transparent and intelligible justification" for the result (*Vavilov*, at para 136). To set aside the decision on the basis that it is unreasonable,

the reviewing court must be satisfied that “there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency” (*Vavilov*, at para 100).

[6] In *Nesarzadeh v Canada (Citizenship and Immigration)*, 2023 FC 568 at paras 5-9, Justice Pentney provided a helpful summary of the key principles that guide judicial review of study permit decisions. Drawing on this summary and the jurisprudence cited in *Nesarzadeh*, I would state these principles as follows:

- A reasonable decision must explain the result, in view of the law and the key facts.
- *Vavilov* seeks to reinforce a “culture of justification” requiring the decision maker to provide a logical explanation for the result and to be responsive to the parties’ submissions.
- The reviewing court must take the administrative context in which the decision was made into account. Visa officers face a deluge of applications, and their reasons do not need to be lengthy or detailed. However, the reasons do need to set out the key elements of the officer’s line of analysis and be responsive to the central aspects of the application.
- The onus is on an applicant to satisfy the officer that they meet the legal requirements for obtaining a study permit, including that they will leave Canada at the end of their authorized stay.

- Visa officers must consider the “push” and “pull” factors that, on the one hand, could lead an applicant to overstay their visa and remain in Canada, or that would, on the other hand, encourage them to return to their home country when required to.

[7] The decision letter from the visa officer states that the study permit application was refused because Ms. Kashfi had not satisfied the officer that she would leave Canada at the end of her authorized stay. The officer gave two reasons for this: first, Ms. Kashfi’s assets and financial situation were insufficient to support the stated purpose of travel for herself and her son; and second, Ms. Kashfi does not have significant family ties outside Canada.

[8] Despite the reference to the lack of close family members outside Canada in the decision letter, the officer’s Global Case Management System (GCMS) notes do not mention this factor anywhere. Instead, the notes focus on the following factors:

- Ms. Kashfi had been working as a bank teller since February 2003. She explained in her study plan that she was motivated to pursue further studies at Centennial College in English and Business Administration Finance because she had been offered a better paying position with a different company, Sadra Communication Co., and this offer was contingent on her completing these studies in Canada. The officer found that there was a “lack of detail” concerning this potential future employment in the letter from the company Ms. Kashfi provided in support of her application.
- The officer noted that there was a large, unexplained gap in Ms. Kashfi’s academic history. She completed her last degree (in computer studies) in 2002.

- The officer found that, in light of Ms. Kashfi's previous studies and current career, the intended program did not appear to be a logical progression in her career path.
- The presence of large, unexplained lump-sum bank deposits and previous low account balances left the officer unsatisfied that Ms. Kashfi would have access to the funds disclosed in support of the visa application. In the officer's view, the transaction history suggested that "the bank account was inflated for the visa application."

[9] Weighing these factors, the officer was not satisfied that Ms. Kashfi would depart Canada at the end of her authorized stay.

[10] I agree with Ms. Kashfi that the officer's finding that she does not have significant family ties outside Canada is unreasonable because the officer does not address in any way the evidence that several close family members would be remaining in Iran: her husband, her parents, and a brother all reside in Iran and would not be accompanying her to Canada. However, I am not persuaded that this is a basis for setting aside the decision. This is because, standing on its own, the officer's finding that Ms. Kashfi had not established why she wished to pursue the proposed course of studies in Canada provides a reasonable basis for the decision.

[11] Ms. Kashfi had been working as a bank teller for 20 years when she applied for the study permit. She stated in her study plan that she was offered, and had accepted, a position of International Business and Sales Manager with Sadra Communication Co. This offer was contingent on her completing the English and Business Administration Finance programs at Centennial College. That is why she had chosen to undertake this very course of studies.

However, as the officer observed, “there is a lack of detail on the potential employment contract” in the “Job Offer” letter from Sadra Communication Co. that Ms. Kashfi provided in support of her study permit application. One critical detail that is lacking is that Ms. Kashfi was actually offered a position with the company, even one contingent on her completing additional education. Rather, the letter simply states that, if Ms. Kashfi completes her studies at Centennial College, she would be qualified for the position of International Business and Sales Manager with the company. The letter does not actually state she would be given this position with the company on her return to Iran after completing her studies. While the officer does not spell this out expressly in the GCMS notes, the basis of the officer’s concern is apparent when the notes are read in light of the letter from the company (*c.f. Vavilov*, at para 94).

[12] The applicants bore the burden of satisfying the officer that Ms. Kashfi was coming to Canada to study and that they would leave when she completed her proposed course of studies. On her own account, the offer of employment with Sadra Communication Co. was the very reason she wanted to come to Canada to study. However, the letter from the company demonstrates that this “offer” was not an offer of employment at all. It was therefore not unreasonable for the officer to conclude that Ms. Kashfi had not discharged her burden because there was insufficient evidence explaining her motivation to study at Centennial College. Contrary to the applicants’ submissions on review, the officer was not engaging improperly in career or life counselling. Rather, the officer reasonably found that Ms. Kashfi’s own case for why she wished to study in Canada was wanting. While brief, the GCMS notes set out the key elements of the officer’s line of analysis and were responsive to the central aspects of the application.

[13] This is a sufficient basis on which to uphold the officer's decision. As a result, it is not necessary to address the reasonableness or the fairness of the officer's assessment of the applicants' financial circumstances.

[14] For these reasons, this application for judicial review will be dismissed.

[15] The parties did not propose any serious questions of general importance for certification under paragraph 74(d) of the *IRPA*. I agree that no question arises.

**JUDGMENT IN IMM-4433-23**

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

“John Norris”

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Judge



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

**DOCKET:** IMM-4433-23

**STYLE OF CAUSE:** LEILI KASHFI ET AL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** VANCOUVER, BRITISH COLUMBIA

**DATE OF HEARING:** JULY 22, 2024

**JUDGMENT AND REASONS:** NORRIS J.

**DATED:** JULY 25, 2024

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