

Federal Court



Cour fédérale

**Date: 20240904**

**Docket: IMM-4180-23**

**Citation: 2024 FC 1385**

**Ottawa, Ontario, September 4, 2024**

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

**BETWEEN:**

**ALIREZA SAMAVATIAN  
AND MALIHEH GHAFOURZADEH  
AND KIANA SAMAVATIAN  
AND KIARAD SAMAVATIAN**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Principal Applicant [PA], Alireza Samavatian, is a citizen of Iran. In January 2023, he was accepted into a two-year Master's of Business Administration program. In a decision dated March 23, 2023, an Immigration Officer [the Officer] refused his application for a study permit. The other Applicants are the PA's spouse and children whose applications to allow them to accompany the PA were also refused.

[2] The Applicants apply under subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] for judicial review of the Officer's refusal decisions arguing that the Officer's reasons contain numerous badges of unreasonableness and that the process was procedurally unfair.

[3] The PA argues the Officer provided no intelligible analysis and that the concerns raised by the Officer are either unjustified or contradicted by the evidence. He submits the Officer's conclusion that the purpose of the PA's trip is not consistent with a temporary stay was a bald and unjustified statement, and that the Officer erred on numerous grounds including the assessment of PA's the financial evidence.

[4] The Officer's decision is reviewable on the standard of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at para 10). The reasonableness standard of review is a deferential but robust form of review (Vavilov at paras 12, 13, 75 and 85). Reasonableness review requires the court to focus on the decision actually made – both the reasoning process and the outcome – and to consider whether the decision as a whole is transparent, intelligible, and justified (Vavilov at paras 15 and 83).

[5] Where procedural unfairness is alleged, a reviewing court is to review the process on a standard that is akin to correctness and determine if the procedure was fair having regard to all of the circumstances (*Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 para 54). Recognizing that the duty of procedural fairness is variable, flexible, and context-specific, this review is undertaken with a focus on the substantive rights that are engaged

and the consequences for the impacted individuals (*Vavilov* at para 77, citing *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817, at paras 22-23 [*Baker*]).

[6] The reasons for refusing the PA's Study Permit Application are set out in the Global Case Management System [GCMS] notes:

I have reviewed the application. I have considered the following factors in my decision. I note multiple property deeds and titles are provided, however, no banking transaction history to show regular intervals of deposits into the applicant's accounts from said properties. Bank balance statements provided; large balances noted, no transaction history. I have concerns that the property documents are for demonstration purposes only and are not reflective of the applicants [*sic*] legitimate financial resources. Taking this into account, alongside the applicant's plan of studies into account [*sic*] and banking records provided, I find the applicant's financial situation does not demonstrate that funds would be sufficient or available for tuition, living expenses and travel. I am not satisfied that the proposed studies would be a reasonable expense. The applicant does not have significant family ties outside Canada. 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 weaken [*sic*] 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 University Canada West in a Master of Business Administration. The client has previous studies at the same academic level as the proposed studies in Canada. Previous university studies in Master of Accounting. Currently employed as a [*sic*] Accounting Manager. 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. Applicant has a letter of support from their employer and guarantee of continued employment upon return. Although the letter states

continued employer support it does not articulate in detail the necessity of the international education. The letter from the employer is generic in its details and lists a series of tasks that were performed by the applicant along with positive character attributes. The employer's letter acknowledges the benefits of international education to their business and having skilled staff, however, there is a lack of detail on the potential employment contract. 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.

[7] In refusing the applications of the PA's three family members the GCMS notes state:

I have reviewed the application. I have considered the following factors in my decision. The purpose of the applicant's visit to Canada is not consistent with a temporary stay given the details provided in the application. Client is seeking entry to accompany a family member who is applying for a study permit. Family member's study permit has been refused. For the reasons above, I have refused this application. Weighing the factors in this application. [sic] 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.

[8] I am not persuaded that the Officer's decision was unreasonable or procedurally unfair.

[9] A study permit applicant has the onus to demonstrate that they meet the requirements for a study permit including demonstrating they will leave Canada at the end of their authorized stay. The combined effect of the IRPA and the regulations do not provide much room for an officer to fill gaps in the evidence or give an applicant the benefit of the doubt (*Hashem v Canada (Citizenship and Immigration)*, 2020 FC 41 at para 31, citing *Chhetri v Canada (Citizenship and Immigration)*, 2011 FC 872 at para 9; *Taeb v Canada (Citizenship and Immigration)*, 2023 FC 576 at para 5 [*Taeb*]).

[10] Section 216 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [IRPR] requires that an officer be satisfied the evidence has established that the claimant will leave Canada at the end of their stay. Section 220 of the IRPR provides that an officer “shall not issue a study permit” unless it is established the applicant has sufficient and available financial resources, without working in Canada, to pay tuition and fees, maintain themselves and accompanying family members, and pay the costs of transportation for themselves and accompanying family members to and from Canada.

[11] Applicants from Iran are also provided specific instructions and a checklist when applying for a study permit (*Study Permit - Ankara Visa Office Instructions* (IMM 5816 E) [*Ankara checklist*]). These instructions address the documentation to be provided in support of an application and, in particular, detail the documentation expected to establish proof of funds.

[12] The PA asserts that the Officer’s finding that “[t]he purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application,” is a bald assertion that is not tied to any specific details or subject to any analysis. This argument is not persuasive. The Officer states the finding is based on the “details provided in the application;” the finding is made in the context of the Officer’s consideration of the Applicant’s evidence, including financial circumstances as disclosed in the Application, ties outside of Canada, and the Applicant’s education history. The Applicant accurately submits that the finding is not tied to a specific detail, but this is because the finding reasonably flows from the Officer’s consideration and analysis of the various details and issues addressed in the GCMS notes.

[13] In assessing the PA's financial evidence, the Officer found that the PA had failed to provide evidence of banking transaction records – records specifically identified as required in the *Ankara checklist* under the heading, “You must submit the following.” This being so, it was not unreasonable for the Officer to conclude that bank statements demonstrating large balances without documentation evidencing the underlying transactions did not establish sufficient funds (*Davoodabadi v Canada (Citizenship and Immigration)*, 2024 FC 85 at para 13 [*Davoodabadi*]).

[14] The Applicant argues the Officer misapprehended the evidence as it related to properties in Iran and whether the Applicant sought to rely on those properties for income purposes. Further, the Applicant submits that the Officer also unreasonably failed to consider that the PA had already paid his tuition. I accept that these arguments have some merit, however, they do not address or contradict the primary basis underlying the Officer's finding that in the absence of bank records – including a financial transaction history – the PA had not satisfied his burden of establishing sufficient available funds for tuition, living expenses and travel.

[15] Having reasonably concluded that the PA had failed to demonstrate sufficient and available financial resources to cover the expenses identified at section 220 of the IRPR, the Officer was required to refuse the application.

[16] Turning to the issue of procedural fairness, it is not controversial that fairness requirements for study permit applications fall on the lower end of the spectrum. An officer is only required to give an applicant an opportunity to respond to their concerns where they raise a concern about the credibility, accuracy or genuineness of the evidence presented. An officer is

under no obligation to seek further information from an applicant when the concerns arise on the face of the application, nor does an officer have to inform an applicant of their doubts about the requirements set out in the legislation (*Patel v Canada (Citizenship and Immigration)*, 2020 FC 517 at para 12; *Taeb*, at para 5; *Nourani v Canada (Citizenship and Immigration)*, 2023 FC 732 at para 50; *Zamor v Canada (Citizenship and Immigration)*, 2021 FC 479 at paras 15-16).

[17] The PA raises fairness as an issue but advances little in the way of specific arguments in support of the assertion that the procedure was unfair. In addressing the Officer's treatment of the financial evidence, the PA, relying on *Taeb*, argues that in stating parts of the PA's financial evidence was provided for "demonstration purposes" only, the Officer viewed the evidence as a deceptive façade. Having questioned the evidence, it was incumbent on the Officer to provide the Applicant an opportunity to respond. To be sure, in *Taeb*, the officer based their decision on their view that the totality of the documentary evidence including "cash on hand, real estate, and a tuition deposit" was "merely for demonstrative purposes" (at para 6). That is not the case here.

[18] I recently considered a similar argument in *Davoodabadi*, but concluded an issue of fairness did not arise. This is because the Officer was not calling into question the authenticity of the records but instead was simply highlighting that, in the absence of a transaction history and banking records, the property records were not reflective of available financial resources (*Davoodabadi*, at para 20). I reach the same conclusion here.

[19] For the above reasons, I am not persuaded that the Officer's decision was unreasonable or procedurally unfair.

[20] Not having found an error warranting intervention in the decision refusing the PA's Study Permit Application, I am similarly satisfied that the Officer's treatment of the applications of the PA's family members – refused primarily on the basis that the PA's study permit had been refused – was also reasonable.

[21] The Application for judicial review is dismissed. The Parties have not proposed a question for certification, and none arises.



**JUDGMENT IN IMM-4180-23**

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

1. This application for judicial review is dismissed.
2. No question is certified.

“Patrick Gleeson”

---

Judge

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

**DOCKET:** IMM-4180-23

**STYLE OF CAUSE:** ALIREZA SAMAVATIAN AND MALIHEH  
GHAFOURZADEH AND KIANA SAMAVATIAN  
AND KIARAD SAMAVATIAN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

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

**DATE OF HEARING:** APRIL 24, 2024

**JUDGMENT AND REASONS:** GLEESON J.

**DATED:** SEPTEMBER 4, 2024

**APPEARANCES:**

Samin Mortazavi FOR THE APPLICANTS

Quinn Ashkenazy FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Pax Law Corporation FOR THE APPLICANTS  
Barristers, Solicitors & Notaries  
Vancouver, British Columbia

Attorney General of Canada FOR THE RESPONDENT  
Vancouver, British Columbia