Federal Court  Cour fédérale

Date: 20240910

Docket: IMM-9819-23

Citation: 2024 FC 1422

Toronto, Ontario, September 10, 2024

PRESENT: The Hon Mr. Justice Henry S. Brown

BETWEEN:

ANA PAULA MATIAS
JORGE GABRIEL MATIAS MASSAS

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Nature of the Matter

[1] This is a judicial review of a decision of the Refugee Appeal Division [RAD] of the Immigration and Refugee Board dated June 26, 2023, rejecting the Applicants' claim for refugee protection [Decision]. The RAD upheld the decision of the Refugee Protection Division [RPD] finding the Applicants are neither *Convention* refugees nor persons in need of protection under

section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] as they did not rebut the presumption of operationally adequate state protection in Portugal.

II. Facts

[2] The Principal Applicant [PA] and her son, the Minor Applicant [MA] seek refugee protection alleging gender-based violence and abuse towards them they fear will occur in Portugal by a Portuguese national who abused them in Angola. The PA worked as a live-in domestic worker in Angola. She was subject to severe abuse in Angola by a relative of her employer. Neither Applicant has ever lived in Portugal. That said, the fact of abuse is not disputed. In its reasons, the RPD states:

> [16] I accept that the principal claimant was sexually and physically abused by [deleted], the minor claimant's father. Her narrative was very specific about the abuse she endured and she declared that it was complete and true.

[3] The RAD upheld the RPD's finding that both the PA and MA hold dual citizenship in both Angola and Portugal. Notwithstanding, the Applicants in their Memorandum claim the PA is a citizen of Angola and no other country. That allegation was abandoned at the hearing by newly-appointed counsel for the Applicants, quite properly in my view as discussed later.

[4] The PA identifies as black. The MA is biracial. The PA's employer and his brother are white.

III. Decision under Review

[5] The RAD found the determinative issue is whether the RAD was correct in concluding the Applicants did not rebut the presumption of operationally adequate state protection in Portugal.

[6] The RAD reproduces the following paragraphs from the RPD reasons in its Decision:

> *Similarly situated to Roma*
>
> [27] In her submissions, counsel argued that the situation of Roma in Portugal ought to be considered on the basis that they are similarly situated to persons of African origin in Portugal.
>
> [28] It is established in the jurisprudence that a section 96 claim can be established by examining the situation of similarly situated individuals and that personal targeting and past persecution are not required. It is necessary to consider the claimant's particular circumstances in combination with the general documentary evidence to assess a risk of persecution.
>
> [29] I find that the situation of Roma and the situation of persons of African origin are sufficiently distinct and the claimants' personal characteristics and circumstances are not sufficiently similar to Roma. The Federal Court has held that a claimant must show how evidence is relevant to them in that they are sufficiently similarly situated to those described in the evidence. Roma are described as a distinct group and one of the most excluded populations. There is a long history of Roma within Portuguese society. They usually live in segregated settlements and lack adequate essential services. I will consider objective evidence which speaks generally to the treatment of minority groups as both Roma and persons of African descent are part of the minority in Portugal. However, evidence specifically about the treatment of Roma is not sufficiently similar to the claimants who are of African origin and therefore not relevant in this analysis.
>
> *Analysis of adequate state protection*
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> [30] I find that the claimants failed to provide clear and convincing evidence to rebut the presumption of state protection and I find that adequate state protection is available to them in Portugal.

[31] The claimants fear CMM and believe he can track them in Portugal.

The objective evidence

[32] According to the Bertelsmann Stiftung report, unlike many other European countries, immigration is not a salient or extremely divisive political issue in Portugal. Parties espousing racist, fascist or regionalist values are all constitutionally prohibited, as are parties whose names are directly related to specific religions. Despite constitutional protections, poorer elements of society, as in any country, tend to lack the educational, legal and other means to take full advantage of these guarantees. Moreover, the justice system continues to be very slow, which also reduces its ability to effectively protect citizens. A new law to increase social and political rights of citizens has been passed and will take time to percolate through to change attitudes and behaviours. State policies seek to redress discrimination and cases of overt discrimination are rare. Portugal is recognized for having a low level of discrimination. However racial discrimination remains a concern including an incident of police violence against a person of Angolan origin. In a case involving 17 police officers on trial for racially motivated attacked on a group of young black Portuguese men in 2015, eight were found guilty of some charges but all were acquitted of the racism charges.

[33] The U.S. Department of State report describes Portugal as a democracy with free and fair elections. Significant human rights issues included credible reports of crimes involving threats of violence targeting members of racial/ethnic minority groups. The judicial system prosecuted persons accused of committing gender-based violence, including violence towards women. Gender-based violence, including domestic violence, continued to be a problem. The government encouraged survivors of violence to file complaints and offered the victim protection against the abuser. The government's Commission for Equality and Women's Rights operated 39 safe houses and 28 emergency shelters for victims of domestic violence. The Council of Europe's commissioner for human rights expressed concerns about increasing levels of racism and the persistence of related discrimination in the country. She noted a number of assaults on people of African descent and other persons perceived as foreigners. In one murder case against a Portuguese citizen of African descent, his killer was convicted to 22 years in prison. The Commission for Equality and Against Racial Discrimination (CICDR) noted an increase in complaints of discrimination in 2020 and explained that the increase could be attributed to greater social awareness of the problem of racial and

> ethnic discrimination as well as a growing knowledge and confidence in the commission and in the mechanisms available for the exercise of rights. A UN working group on Peoples of African Ancestry expressed surprise and shock by reports on police brutality in the country and commented that its observations did not accord with a country that claims to be open and progressive.
>
> [34] A UN Human Rights Council report states that support centres for the integration of migrants were established to provide national and local support to Portugal's immigrant population. Affordable housing programs were created and access to education is promoted. Compulsory education is free. Families with insufficient economic resources may receive subsidies for school transportation and supplies. Tailored assistance is available to vulnerable groups such as survivors of domestic violence to aid in employment including training courses and resources for entrepreneurship. An intersectional perspective to equality policies was undertaken with the strategic plan for women immigrants to promote equality and reinforce personal, professional and civic integration. Laws demonstrate Portugal's commitment to combat discrimination against women and to combat violence against women. Access to protection is available including support centres and other types of interventions.
>
> [35] In my view, the objective evidence demonstrates adequate state protection. State protection need not be perfect but must be effective. Portugal is a well functioning democracy and is distinguished from other European countries in terms of a low level of discrimination. While there are issues with discrimination against persons of African descent, there are adequate state protections as described above including resources and sources of protection for the principal claimant who is a survivor of gender-based violence.

[7] The RAD on its independent review held the RPD was correct in making these findings.

[8] The RAD further notes it considered Chairperson's Guideline 3: Child Refugee Claimants, and Chairperson's Guideline 4: Gender Considerations in its Decision.

IV. Issues

[9] At issue is whether the RAD's Decision is reasonable.

V. Standard of Review

[10] The parties submit the standard of review is reasonableness, and I agree. With regard to reasonableness, in *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, issued at the same time as the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [*Vavilov*], the majority per Justice Rowe explains what is required for a reasonable decision, and what is required of a court reviewing on the reasonableness standard:

> [31] 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" (*Vavilov*, at para. 85). Accordingly, when conducting reasonableness review "[a] reviewing court must begin its inquiry into the reasonableness of a decision by examining the reasons provided with 'respectful attention' and seeking to understand the reasoning process followed by the decision maker to arrive at [the] conclusion" (*Vavilov*, at para. 84, quoting *Dunsmuir*, at para. 48). The reasons should be read holistically and contextually in order to understand "the basis on which a decision was made" (*Vavilov*, at para. 97, citing *Newfoundland Nurses*).
>
> [32] A reviewing court should consider whether the decision as a whole is reasonable: "what is reasonable in a given situation will always depend on the constraints imposed by the legal and factual context of the particular decision under review" (*Vavilov*, at para. 90). The reviewing court must ask "whether the decision bears the hallmarks of reasonableness – justification, transparency and intelligibility – and whether it is justified in relation to the relevant factual and legal constraints that bear on the decision" (*Vavilov*, at para. 99, citing *Dunsmuir*, at paras. 47 and 74, and *Catalyst Paper Corp. v. North Cowichan (District)*, 2012 SCC 2, [2012] 1 S.C.R. 5, at para. 13).

> [33] Under reasonableness review, "[t]he burden is on the party challenging the decision to show that it is unreasonable" (*Vavilov*, at para. 100). The challenging party must satisfy the court "that any shortcomings or flaws relied on ... are sufficiently central or significant to render the decision unreasonable" (*Vavilov*, at para. 100).
>
> [Emphasis added]

[11] *Vavilov* makes it abundantly clear the role of this Court is not to reweigh and reassess the evidence unless there are "exceptional circumstances." The Supreme Court of Canada instructs:

> [125] It is trite law that the decision maker may assess and evaluate the evidence before it and that, absent exceptional circumstances, a reviewing court will not interfere with its factual findings. The reviewing court must refrain from "reweighing and reassessing the evidence considered by the decision maker": *CHRC*, at para. 55; see also *Khosa*, at para. 64; *Dr. Q*, at paras. 41-42. Indeed, many of the same reasons that support an appellate court's deferring to a lower court's factual findings, including the need for judicial efficiency, the importance of preserving certainty and public confidence, and the relatively advantageous position of the first instance decision maker, apply equally in the context of judicial review: see *Housen*, at paras. 15-18; *Dr. Q*, at para. 38; *Dunsmuir*, at para. 53.
>
> [Emphasis added]

[12] The Federal Court of Appeal recently held in *Doyle v Canada (Attorney General)*, 2021 FCA 237 that the role of this Court is not to reweigh and reassess the evidence unless there is a fundamental error (or exceptional circumstances, per *Vavilov*):

> [3] In doing that, the Federal Court was quite right. Under this legislative scheme, the administrative decision-maker, here the Director, alone considers the evidence, decides on issues of admissibility and weight, assesses whether inferences should be drawn, and makes a decision. In conducting reasonableness review of the Director's decision, the reviewing court, here the Federal Court, can interfere only where the Director has committed fundamental errors in fact-finding that undermine the acceptability

> of the decision. Reweighing and second-guessing the evidence is no part of its role. Sticking to its role, the Federal Court did not find any fundamental errors.
>
> [4] On appeal, in essence, the appellant invites us in his written and oral submissions to reweigh and second-guess the evidence. We decline the invitation.
>
> [Emphasis added]

VI. Submissions of the Parties

A. *Was the RAD's decision reasonable?*

[13] For the reasons below, I conclude the RAD's decision is reasonable.

(1) Citizenship

[14] The Applicants asserted the PA is a citizen of Angola and no other country, while the MA is a citizen of both Angola and Portugal. These facts were disputed by the Respondent, who submitted the PA is a citizen of both Angola and Portugal.

[15] At the hearing the Applicant conceded the PA (like the MA) had both Portuguese and Angolan citizenship. I agree. In this respect, identity documents issued by foreign governments are presumed to be authentic (*Liu v Canada (Citizenship and Immigration)*, 2020 FC 576 [*Liu*]). This is a rebuttable presumption (*Liu* at para 86). Applying this principle, the RPD held, and the RAD affirmed, that the Applicants' Portuguese passports are genuine:

> [11] I find that the principal claimant is a citizen of Portugal. Based on her testimony, I find it probable that her Portuguese passport is genuine. Although she could not provide details about how it was obtained (the procedure), she explained her entitlement to Portuguese citizenship through an agreement between Angola

> and Portugal. This finding is corroborated by the principle claimant's birth certificate which was provided through the Consulate General of Portugal in Toronto. This document indicates that the principal claimant obtained Portuguese citizenship as of April 10, 2006. The objective evidence confirms that Portugal does not prevent dual citizenship. I do note an inconsistency in the principal claimant's testimony when she testified that PA obtained her passport for her. Her passport is issued on March 16, 2019. PA could not have helped her obtain this passport as he died on August 17, 2017. However her birth certificate confirms her entitlement to Portuguese citizenship and I accord significant weight to this document to establish this fact.
>
> …
>
> [13] I find that the minor claimant is a Portuguese citizen based on his passport. I do note a discrepancy as highlighted by the Minister regarding the place of birth for the minor claimant. His passport indicates his place of birth was in Portugal however his birth certificate indicates he was born in Angola. I note that the minor claimant's birth certificate was issued in 2015 and his passport was issued on March 18, 2019. The principal claimant could offer no information about the process by which their Portuguese passports were obtained. I have no evidence before me that the passports were improperly obtained or non-genuine. I am guided by the principle that foreign documents issued by a competent foreign public authority should be accepted as what they purport to be unless there is valid reason to doubt their authenticity. It has been established by jurisprudence that a passport holder is a national of the country of issue. The mere assertion by the passport holder that it was issued as a matter of convenience for travel purpose is not sufficient to rebut the presumption of nationality.
>
> [Emphasis added]

[16] In my respectful view, the concurrent findings by the RPD and RAD, both of which have considerable experience in such matters and are entitled to respectful deference, are justified by the record and therefore reasonable.

(2) Assessment of operationally adequate state protection

[17] The RAD found the claimants failed to provide clear and convincing evidence to rebut the presumption that operationally adequate state protection is available to both of them in Portugal.

[18] The Respondent submits that the Applicants' arguments amount to no more than a disagreement with the RAD's findings. For the following reasons, I agree with the Respondent.

(a) *Test for state protection at the operational level*

[19] The jurisprudence of this Court has accepted the test for assessing the adequacy of state protection is at the operational level, which requires an assessment actual results: *Asllani v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 645 per Crampton CJ at paragraph 25:

> [24] With respect to both Italy and Kosovo, Mr. Asllani submits that the RAD erred by failing to state the correct test. In this regard, he states that the correct test is whether state protection is adequate at the "operational level" (*Durdevic v Canada (Citizenship and Immigration)*, 2018 FC 427 at para 33) and that it was incumbent upon the RAD to explicitly articulate that test at the outset of its assessment of the state protection issue.
>
> [25] I disagree. I am not aware of any such onus on the RAD or the RPD. <u>What counts is whether the adequacy of state protection is actually assessed at the operational level.</u> This assessment is made in the course of assessing evidence led by the refugee claimant to overcome the presumption of state protection that exists in the absence of a demonstration of a complete breakdown in the state's apparatus: *Ward*, above, at 692.
>
> [26] It bears underscoring that the burden of overcoming this presumption and demonstrating that adequate state protection does not exist at the operational level lies upon the refugee claimant…
>
> [Emphasis added]

[20] This Court has enunciated and applied this test on a great number of occasions over the years. That the adequacy of state protection must be measured at the operational level is confirmed in: *Bito v Canada (Citizenship and Immigration)*, 2022 FC 1370 per Brown J; *Zapata v Canada (Citizenship and Immigration)*, 2022 FC 1277 per Favel J at paragraphs 15, 25; *Mejia v Canada (Citizenship and Immigration)*, 2022 FC 1032 per McVeigh at paragraphs 25-26, 28; *Rstic v Canada (Citizenship and Immigration)*, 2022 FC 249 per Favel J at paragraphs 18, 30-31; *Asllani v Canada (Immigration, Refugees and Citizenship)*, 2020 FC 645 per Crampton CJ at paragraph 25; *Newland v Canada (Citizenship and Immigration)*, 2019 FC 1418 per McHaffie at paragraphs 23-25; *Dawidowicz v Canada (Citizenship and Immigration)*, 2019 FC 258 per Brown J at paragraph 10; *Gjoka v Canada (Citizenship and Immigration)*, 2018 FC 292 per Strickland J at paragraph 30; *Moya v Canada (Citizenship and Immigration)*, 2016 FC 315 [*Moya*] per Kane J at paragraph 68; *Hasa v Canada (Citizenship and Immigration)*, 2018 FC 270 per Strickland J at paragraph 7; *Eros v Canada (Citizenship and Immigration)*, 2017 FC 1094 per Manson J at paragraph 45; *Benko v Canada (Citizenship and Immigration)*, 2017 FC 1032 per Gascon J at paragraph 18; *Koky v Canada (Citizenship and Immigration)*, 2017 FC 1035 per Gascon J at paragraph 14; *Mata v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 1007 per McDonald J at paragraphs 13-15; *Poczkodi v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 956 per Kane J at paragraph 37; *Paul v Canada (Immigration, Refugees and Citizenship)*, 2017 FC 687 per Boswell J at paragraph 17; and *John v Canada (Citizenship and Immigration)*, 2016 FC 915 at paragraph 14, *Whyte v Canada (Citizenship and Immigration)*, 2023 FC 1420 at paragraph 21 per Turley J. However, see *Mudrak v Canada (Citizenship and Immigration)*, 2015 FC 188 per Annis J at paragraphs 50, 81, which and with respect is not correct and should not be followed.

[21] Another example is Justice Kane's reasons in *Moya* at paragraphs 73-76:

> [73] To be adequate, perfection is not the standard, but state protection must be effective to a certain degree and the state must be both willing and able to protect (*Bledy v Canada (Minister of Citizenship and Immigration)*, 2011 FC 210 at para 47, [2011] FCJ No 358 (QL)). State protection must be adequate at the operational level (*Henguva v Canada (Minister of Citizenship and Immigration)*, 2013 FC 483 at para 18, [2013] FCJ No 510 (QL); *Meza Varela v Canada (Minister of Citizenship and Immigration)*, 2011 FC 1364 at para 16, [2011] FCJ No 1663 (QL)).
>
> [74] As noted by the applicant, democracy alone does not ensure effective state protection; the quality of the institutions providing protection must be considered *(Sow v Canada (Minister of Citizenship and Immigration)*, 2011 FC 646 at para 11, [2011] FCJ No 824 (QL) [*Sow*]).
>
> [75] The onus on an applicant to seek state protection varies with the nature of the democracy and is commensurate with the state's ability and willingness to provide protection (*Sow* at para 10; *Kadenko v Canada (Minister of Citizenship and Immigration)*, 1996 CanLII 3981 (FCA), [1996] FCJ No 1376 (QL) at para 5, 143 DLR (4th) 532 (FCA)). However, an applicant cannot simply rely on their own belief that state protection will not be forthcoming (*Ruszo v Canada (Minister of Citizenship and Immigration)*, 2013 FC 1004 at para 33, [2013] FCJ No 1099 (QL)).

[22] The Respondent also notes a "heavy burden" arises to rebut the presumption when the country in question is democratic (*Odeesh v Canada (Immigration, Refugees and Citizenship)*, 2019 FC 661 at paragraphs 23-6, citing *Canada (AG) v Ward*, [1993] 2 SCR 689 at paragraphs 52-9; *Hinzman v Canada (Citizenship and Immigration)*, 2007 FCA 171 at paragraph 57; *Canada (Minister of Citizenship and Immigration v Flores Carrillo*, 2008 FCA 94). Notably, this heavy burden has been applied to Portugal by this Court, including in cases of domestic violence such as in the present case: (*Teofilio v Canada (Citizenship and Immigration)*, 2014 FC 783; *Cabral De Medeiros v Canada (Citizenship and Immigration)*, 2008 FC 386; *Da Costa Soares v*

Canada (Citizenship and Immigration), 2007 FC 190). In my view the Applicants failed to succeed because they simply did not satisfy the heavy burden on them in this connection.

(b) *Consideration of objective evidence*

[23] The Applicants argue the RAD decision is unreasonable because the RAD "fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov* at para 1286). The Applicants submit the evidence was not thoroughly evaluated, and the RAD's assessment of the evidence appears is superficial and flawed because crucial parts of the evidence, namely two reports by Amnesty International and Freedom House, are ignored. However in my respectful view, this allegation is without merit because administrative tribunals are under no obligation to refer to every argument or document or item of evidence the parties rely upon.

[24] The Applicants submit these reports establish substantial challenges the Applicants would likely face in Portugal, particularly when seeking access to legal services as black people of African descent within a context of pervasive systemic racism. They further draw a comparison between the conditions of the Roma people in Portugal, highlighted in these reports, and those of black people of African descent. I find these arguments unpersuasive. They are a request to second guess the decision maker on factual findings. In my respectful view these arguments were reasonably and thoroughly discussed and rejected by both the RPD and RAD as may be seen in the extract of the RAD's Decision quoted at the outset of these Reasons.

[25] Further more, as the Respondent submits, it is my view that the RAD reasonably found country documentary evidence in the record concerning Roma people was not relevant to the Applicants' state protection situation because it concerns a different racial minority which has a distinct history in Portugal. In this connection the Respondent submits, and I agree:

> 24. The Applicants before the Court attempt to impugn the state protection capacity of Portugal by selectively parsing through the objective evidence. For example, the Applicants refer to the following passage that allegedly emphasizes Portugal's inadequate provision of state protection:
>
> > [B]lack residents are also susceptible to disparities in house, education, and employment. A September 2019 from the European Network Against Racism (ENAR) found "deeply rooted institutional" discrimination at every stage of the judicial process, from reporting through sentencing. Anti racism advocates have accused the state-run Commission for Equality and against Racial Discrimination of negligence in its role of the government's main anti discrimination agency.
>
> 25. The Applicants, however, omit the beginning of that section which states that "Although by some measures Portugal is considered a less discriminatory environment for people of African descent than other EU countries …" The Applicants further omit that this passage was taken from the same report that awarded Portugal, a global freedom score of "96/100." The Respondent submits, that the RAD's reasonable and transparent analysis explicitly acknowledges, in confirming the RPD's findings, that state protection need not be perfect but must be effective. The Applicants selective parsing does not rebut the presumption of state protection and does not dispel the findings that state resources are available for victims of domestic abuse and that abusers of women are prosecuted.

[26] In my view there is no unreasonableness in the RAD's rejection of comparisons with Roma people in Portugal; that is entirely a matter of weighing and assessing the evidence which I have considered and find without fundamental or other error.

[27] Notably, I was not pointed to any objective country condition evidence that was not considered. As noted, neither the PA nor MA have ever lived in Portugal, and so, neither provided any affidavit evidence of personal experience with Portuguese authorities. I should add newly-appointed counsel for the Applicant repeatedly alleged other country condition documents were available but were, through counsel's incompetence, not placed before the RPD or the RAD. But newly-appointed counsel did not place these documents before this Court. Accordingly, I give no credit to this line of argument.

[28] In addition, newly-appointed counsel did not provide the Court with a complaint the Applicants filed against their previous counsel with the Law Society of Ontario, which is a precondition of such an extraordinary attack on that professional's competence (*Satkunanathan v Canada (Citizenship and Immigration),* 2020 FC 470; *Ram v Canada (Citizenship and Immigration),* 2022 FC 795 at para 12, citing *Yang v Canada (Citizenship and Immigration),* 2015 FC 1189 at para 16. See also *Hamdan v Canada (Immigration, Refugees and Citizenship),* 2017 FC 643 at para 38). In this connection, *Tesema v The Minister of Citizenship and Immigration,* 2022 FC 1240 and *Rendon Segovia v Canada (Citizenship and Immigration),* 2020 FC 99 outline the test for incompetent counsel and emphasize the high bar that must be met and hold that "one begins with a strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance": *Rendon Segovia* at para 22. For these reasons I find no merit in this aspect of the Applicant's submissions. There is no basis for the Court to consider allegation previous counsel was incompetent.

[29] In addition, respectfully, many of the Applicants' submissions about discrimination in Portugal might also apply to Canada. The existence and operation of anti-black racism in Canada

has been recognized by the Supreme Court of Canada (*R v Le*, 2019 SCC 34) and other higher courts across the country (see e.g. *R v Parks*, 1993 CanLII 3383 (ON CA); *R v Morris*, 2021 ONCA 680; *R v Theriault*, 2021 ONCA 517 at para 143; *R v Anderson*, 2021 NSCA 62; *R v Pierre*, 2023 ABCA 300 at para 6). Counsel also pointed to George Floyd events in the United States.

[30] That said, this case does not involve either Canada or the United States but instead the focus is and must remain on operationally adequate state protection in Portugal.

(c) *Intersectional analysis*

[31] The Applicants further submit judicial review is warranted because the Decision lacks an analysis from the Applicants' perspective. They allege the RAD failed to consider the Applicants' unique intersectional context, notably race, gender, origin, accent, and being victims of violence.

[32] There is no merit in this submission. It is directly contrary to the facts because the RAD explicitly addresses these arguments. Moreover the RAD finds they did not impact the assessment of adequate state protection available in Portugal:

> [14] The appellants finally argue that the RPD erroneously failed to consider the effect of their unique intersectionality on their state protection situation in Portugal based on their race, gender, age and marginalized economic circumstances vis-a-vis the wealth and privilege of their white male abuser, CMM. The RAD also rejects this argument. In the RAD's view, it is not a significantly different argument than the arguments already made by the appellants above and it meets with the same findings. Despite the appellants' unique intersectionality, the country documentary evidence in the record still indicates that Portugal

> provides safe houses and shelters for victims of abuse and that it does prosecute men who abuse women. And despite the appellants' unique intersectionality, the minor appellant still has the assurance that the principal appellant will act in his best interests and the country documentary evidence referenced by the RPD above indicates that the principal appellant can complain about CMM to Portuguese authorities, and they will prosecute him.
>
> [Emphasis added]

VII. Conclusion

[33] The Applicants have failed to establish the RAD decision is unreasonable, therefore judicial review will be dismissed.

VIII. Certified Question

[34] No question of general importance for certification was advanced at the hearing, however I agreed to permit a few days for the Applicant to propose such a question. The Applicant did not put forward a question.

[35] In the result neither party submitted a question for certification and none arises.

JUDGMENT in IMM-9819-23

THIS COURT'S JUDGMENT is that: the application for judicial review is dismissed, no question of general importance is certified, and there is no order as to costs.

"Henry S. Brown"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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