

Federal Court



Cour fédérale

**Date: 20241023**

**Docket: IMM-9346-23**

**Citation: 2024 FC 1680**

**Ottawa, Ontario, October 23, 2024**

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

**BETWEEN:**

**GAZMEND BUJAJ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant, Gazmend Bujaj, seeks judicial review of a decision of a Senior Immigration Officer (the “Officer”) of Immigration, Refugees and Citizenship Canada (“IRCC”) dated June 7, 2023, denying his application for a Pre-Removal Risk Assessment (“PRRA”) pursuant to section 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (“IRPA”).

[2] The Applicant submits that the Officer's decision is unreasonable, the Officer having failed to provide a rational chain of analysis or consider evidence that contradicted their conclusion.

[3] For the following reasons, I find that the Officer's decision is unreasonable. This application for judicial review is granted.

## II. **Facts**

[4] The Applicant a citizen of Albania. The Applicant states that his family are well known to be supporters of the Democratic Party (the "DP") and thus enemies of the ruling Socialist Party (the "SP"). The Applicant alleges that members of his family have been tortured and imprisoned for supporting the DP.

[5] In February 2019, the Applicant was attacked and beaten by the Markaj clan, supporters of the SP who were engaged in a blood feud with the Applicant's cousin and extended family. The Applicant states that he sought police protection, but was rebuffed.

[6] In June 2019, there were local elections in Albania. The Applicant states that members of the Markaj family were elected into power as SP politicians. Five months later, the Applicant fled Albania and traveled to Canada, submitting a PRRA on the basis of political persecution and the blood feud.

[7] On June 7, 2023, the Officer refused the Applicant's PRRA. The Officer found that the Applicant was not credible, the political violence alleged by the Applicant did not rise to the level of persecution, and the evidence of a forward-looking risk from the blood feud was insufficient.

### III. **Issue and Standard of Review**

[8] The sole issue in this application is whether the Officer's decision is reasonable.

[9] The parties submit that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("Vavilov") at paras 16–17, 23–25). I agree.

[10] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13, 75, 85). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible and justified (*Vavilov* at para 15). A decision that is reasonable as a whole 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). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[11] 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. A reviewing court must refrain from reweighing evidence before the decision maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

#### IV. Analysis

[12] The Applicant submits that the Officer’s decision is unreasonable. The Applicant maintains that the Officer failed to provide a rational chain of analysis for their conclusion that the political violence faced by the Applicant does not rise to the level of persecution. Additionally, the Applicant submits that the Officer failed to address evidence that contradicted their conclusion, including both sworn statements and documentary evidence.

[13] The Respondent maintains that the Applicant is requesting this Court to reweigh the evidence. Highlighting negative credibility findings against the Applicant, the Respondent submits that the Officer provided a rational chain of analysis for their conclusion and was not obliged to address each piece of evidence before them.

[14] I agree with the Applicant.

[15] The Officer’s negative credibility findings were limited in scope and cannot reasonably be taken to foreclose the risk alleged by the Applicant. Crucially, the Officer’s credibility findings do not derogate from their conclusion that it is “the [A]pplicant is or may be perceived

to be opposed to the [SP].” The risk alleged by the Applicant turns on his opposition to the ruling party, not the discrete pieces of evidence impugned by the Officer.

[16] Having accepted that the Applicant may be seen as an opponent of the SP, the Officer’s finding that the Applicant would not face political persecution in Albania is unreasonable. The Applicant submitted extensive evidence of systemic political violence in Albania. The Officer did not adequately assess this evidence in their reasons, simply noting that, although they “acknowledge these conditions, and [they] accept that those whom [sic] are critical of the ruling party in Albania may face instances of discrimination...there [was] insufficient evidence before [them] to indicate that this level of discrimination rises to persecution.” This bare statement of the Officer’s conclusion demonstrates an inappropriately selective approach to the evidence and does not satisfy the expectation that the Officer must address evidence that contradicts their conclusion (*Ngabo v Canada (Citizenship and Immigration)*, 2024 FC 1425 (“*Ngabo*”) at para 20 [citations omitted])).

[17] Furthermore, the Applicant rightly states that the Officer failed to provide a rational chain of analysis for their negative determination on political persecution. In making this determination, the Officer relies on the US Department of State’s 2022 Country Report on Albania (the “Report”), which describes ongoing efforts to improve electoral freedom in the country. However, the Report also found that a “long-standing culture of impunity” exists in Albania and “concern persisted that open criticism of the government might have adverse consequences.” The Applicant asserts that he would face persecution due to these very issues.

[18] I find that it was unreasonable for the Officer to discount political persecution on select sections of the Report while failing to grapple with adjacent sections verifying the very persecution alleged by the Applicant. In other words, evidence that “the state is taking active measures to improve...conditions” does not negate the possibility that conditions are nonetheless severe enough at present to cause some individuals to be persecuted for their political ties. The Applicant brought considerable evidence that he is one such person. The Officer was required to address this evidence (*Ngabo* at para 20), but did not. Consequently, I find that the Officer’s decision is unreasonable in light of the evidentiary record (*Vavilov* at para 126).

V. **Conclusion**

[19] This application for judicial review is granted. The Officer’s decision lacks a rational chain of analysis and is untenable in light of the facts (*Vavilov* at para 101). No questions for certification were raised, and I agree that none arise.

**JUDGMENT in IMM-9346-23**

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

1. This application for judicial review is granted.
2. The decision under review is set aside and the matter is referred back for redetermination by a different officer.
3. There is no question to certify.

“Shirzad A.”

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Judge

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

**DOCKET:** IMM-9346-23

**STYLE OF CAUSE:** GAZMEND BUJAJ v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 12, 2024

**JUDGMENT AND REASONS:** AHMED J.

**DATED:** OCTOBER 23, 2024

**APPEARANCES:**

Jeffrey L. Goldman FOR THE APPLICANT

Charles J. Jubenville FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Jeffrey L. Goldman FOR THE APPLICANT  
Barrister and Solicitor  
Toronto, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Toronto, Ontario