

**Date: 20091013**

**Docket: IMM-1569-09**

**Citation: 2009 FC 1027**

**Ottawa, Ontario, October 13, 2009**

**PRESENT: The Honourable Madam Justice Snider**

**BETWEEN:**

**GANNA SYVYRYN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicant, Ms. Ganna Syvyryn, is a citizen of Ukraine. She came to Canada in 2006 and subsequently claimed refugee protection, alleging fear of abuse from her common-law spouse in Ukraine. In a decision dated March 3, 2009, a panel of the Immigration and Refugee Board, Refugee Protection Division (the Board) determined that the Applicant was not a Convention refugee or a person in need of protection. While the Board believed the Applicant's claims of domestic abuse in her small village, the determinative issue for the Board was the existence of an Internal Flight Alternative (IFA) in Kiev, Ukraine.

[2] The sole issue is whether the Board's conclusion that the Applicant had an IFA in Kiev was reasonable.

[3] The parties agree that the standard of review of the Board's decision is reasonableness. The Court should not intervene where the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 47).

[4] The test for a finding of an IFA is well-established in the jurisprudence (*Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.); *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589) and was correctly stated by the Board in its decision:

The test with respect to IFA is a two pronged approach as seen in *Rasaratnam* and *Thirunavukkaras* [sic]. The Refugee Protection Division must be satisfied, on a balance of probabilities, that there is no serious possibility of the applicant being persecuted in the proposed IFA and that in all the circumstances, including the circumstances particular to the claimant, the conditions in the proposed IFA are such that it is not unreasonable for the claimant to seek refuge there.

[5] The reasons demonstrate that the Board considered the safety of the Applicant in Kiev. The issue of whether the privacy laws would prevent her abusive partner from locating her in Kiev was canvassed. In spite of the Applicant's arguments to the contrary, I am satisfied that the Board's conclusion, on the first prong of the test, was not unreasonable; it falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.

[6] However, the Board's analysis of the second prong of the IFA test was, in my view, inadequate. The Board concluded that it was not unreasonable for the Applicant to seek refuge in Kiev. In reaching this conclusion, the Board appears to have relied solely on the fact that the Applicant had over 20 years of experience in the accounting field. There is no analysis, in the reasons, of the Applicant's age, gender or personal circumstances.

[7] Because the Board was dealing with a victim of domestic abuse, the *Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act: Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution* (the Gender Guidelines), as updated and continued are of particular importance. The Gender Guidelines do not change the well-established test for IFA but provide guidance to decision makers on the evaluation of the weight and credibility of evidence. Of particular relevance to this application, the Guidelines state (at section C4):

In determining the reasonableness of a woman's recourse to an internal flight alternative (IFA), the decision-makers should consider the ability of women, because of their gender, to travel safely to the IFA and stay there without facing undue hardship. In determining the reasonableness of an IFA, the decision-makers should take into account factors including religious, economic, and cultural factors, and consider whether and how these factors affect women in the IFA.

[8] I am not satisfied that the Board had regard to the Gender Guidelines as they relate to a finding of an IFA. The documentary evidence shows that women of the Applicant's age and gender face considerable discrimination in finding employment in Ukraine. The Board did not take such factors into account in reaching its conclusion that it would be reasonable for the Applicant to relocate to Kiev. In fact, the Board failed to make any inquiries of the Applicant that would have assisted in the necessary analysis.

[9] I am not saying that the Board must find that there is no IFA in Kiev. I am simply stating that the transcript of the hearing and the reasons for the decision do not show that the Board had regard to the Gender Guidelines or the documentary evidence relating to discrimination against women seeking employment in Ukraine. In the absence of an analysis of the personal circumstances of the Applicant, having regard to the documentary evidence and section C4 of the Gender Guidelines, I am unable to conclude that the decision was reasonable.

[10] For these reasons, the Application for Judicial Review will be allowed. Neither party proposes a question for certification.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that:**

1. The application for judicial review is allowed, the decision of the Board is quashed and the matter sent back for re-determination by a different panel of the Board;
2. No question of general importance is certified.

“Judith A. Snider”

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Judge

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

**DOCKET:** IMM-1569-09

**STYLE OF CAUSE:** GANNA SYVYRYN v.  
THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** October 1, 2009

**REASONS FOR JUDGMENT:** Snider, J.

**DATED:** October 13, 2009

**APPEARANCES:**

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