

Federal Court



Cour fédérale

**Date: 20121016**

**Docket: IMM-1119-12**

**Citation: 2012 FC 1208**

**Toronto, Ontario, October 16, 2012**

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

**BETWEEN:**

**RITA PALFI  
TAMAS TIBOR VARGA  
DOMINIK TAMAS VARGA**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The Applicants are a family, all Hungarian citizens. The Principal Applicant is the wife who is ethnically Roma, the husband is not, and their child is half Roma. They claim persecution in Hungary and have sought refugee protection in Canada. By a decision of a Member of the Refugee Protection Division dated January 16, 2012 that claim was rejected. This is an application for judicial review of that decision. For the reasons that follow I am dismissing this application.

[2] Applicants' Counsel, in argument, raised three issues:

- a. There was no determination as to persecution;
- b. The analysis of state protection was erroneous;
- c. The Member ignored evidence.

[3] As to issue #1, the Member did not make an explicit determination as to persecution. What the Member did was go straight to the issue of state protection, the assumption being that, even if there was persecution, the Member would have to consider state protection. Quite obviously if the Member had found that there was no persecution the matter could have been rejected on that ground alone. The Member committed no reviewable error in going directly to state protection.

[4] As to issue #3 it appears that, after the hearing, Applicants' Counsel sought and received permission to file additional materials directed to state protection in Hungary. The Member in the Reasons acknowledges this and makes mention of the material in a footnote. Applicants' Counsel did not point to any critical or determinative material contained in the additional evidence. The Member was clearly aware of the material. No reviewable error was committed by the Member in treating the evidence in the manner that it was.

[5] Issue #2 deals with state protection and in particular state protection available to Roma in Hungary.

[6] An analysis of state protection is essentially factual and rests in addressing two questions:

- a. Have the Applicants rebutted the presumption that there is in existence at the time adequate state protection for persons in the circumstances of the Applicants?

- b. Did the Applicants take reasonable steps to avail themselves of that state protection if it were found to exist?

[7] The Member found, on the evidence, that the Applicants failed to rebut the presumption of adequate state protection and that they had failed to take reasonable steps to avail themselves of that protection.

[8] I have reviewed the record and the Member's Reasons. Those reasons are careful and balanced and reveal the frailties of state protection in Hungary for Roma as well as its strong points. The reasoning is commendable and I find that the decision is reasonable.

[9] Neither party requested a certified question.

**JUDGMENT**

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

1. The application is dismissed;
2. No question is certified;
3. No Order as to costs.

“Roger T. Hughes”

---

Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-1119-12

**STYLE OF CAUSE:** RITA PALFI, TAMAS TABOR VARGA, DOMINIK  
TAMAS VARGA v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** OCTOBER 16, 2012

**REASONS FOR ORDER  
AND ORDER BY:** HUGHES J.

**DATED:** OCTOBER 16, 2012

**APPEARANCES:**

Richard Wazana FOR THE APPLICANTS

Brad Gotkin FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Wazana Law FOR THE APPLICANTS  
Barrister and Solicitor  
Toronto, Ontario

Myles J. Kirvan FOR THE RESPONDENT  
Deputy Attorney General of Canada