Federal Court  Cour fédérale

Date: 20130301

Docket: IMM-6262-12

Citation: 2013 FC 213

Ottawa, Ontario, March 1, 2013

PRESENT: The Honourable Mr. Justice Boivin

BETWEEN:

JOHN MICHEAL SUCCAR

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

REASONS FOR JUDGMENT AND JUDGMENT

[1] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [the Act] of a decision dated May 31, 2012, in which an Immigration Officer (the officer) determined that the applicant was not eligible for permanent residence in Canada because he was a person described in paragraph 34(1)(*f*) of the Act.

Background

[2] Mr. Succar (the applicant) was born in 1972 in Bechwat, Lebanon, and is a Lebanese citizen. His admissibility as a permanent resident was under review because of alleged membership to the Lebanese Forces (LF). The LF is a current political party and former Christian militia involved in Lebanon's civil war from 1975 to 1990. At the end of the civil war in 1990, the LF was disarmed and transformed into a political party. It was banned in 1994, and had its political activities restricted by the pro-Syrian government until 2005 when Syrian troops withdrew. Today, the LF is a political party represented in the Lebanese parliament.

[3] In 1985, at the age of thirteen (13) years old, the applicant started voluntarily helping out at a barrack of the LF where members of his family were located. The applicant initially volunteered by guarding the premises, getting water and watching others do mechanical work. In 1987, at the age of fifteen (15), the applicant was hired by the LF as a mechanic. The applicant allegedly fixed LF members' cars, but not vehicles used in combat. The applicant underwent a two-month training in first-aid treatment and on how to use, dismantle and fire personal firearms, at the end of which he was issued a firearm. He also received medical coverage from the LF. The applicant worked as a mechanic for the LF until the end of the civil war in Lebanon, in 1990.

[4] After the end of the civil war, and until 1999, the applicant continued working for the LF by being responsible for a group of about twelve (12) to twenty (20) young men in his home village. He also opened his own mechanic shop in Bechwat, Lebanon, in 1997. The applicant was married on January 4, 1997.

[5] The applicant moved to the United States and lived there from 1999 until 2004. The applicant and his family arrived in Canada on August 26, 2004 and claimed refugee status (Tribunal Record, p 2). Their refugee status was granted by the Immigration and Refugee Board on January 31, 2005. Citizenship and Immigration Canada received the applicant's application for permanent residency on July 11, 2005. His application was approved in principle on March 1, 2006, pending an officer's decision on the issue of inadmissibility. The applicant considers himself a member of the LF and has participated in meetings since his arrival in the United States and Canada (Tribunal Record, CSIS interview, May 3, 2007, p 340; Application Record, Applicant's Affidavit, p 24). He currently owns a mechanic shop where he works full-time to support his wife and children.

[6] The applicant was interviewed by the Canadian Security Intelligence Service (CSIS) on May 3, 2007. On July 23, 2007, the CSIS issued a brief concerning the applicant (Tribunal Record, pp 339-40). This brief was reviewed by Citizenship and Immigration Canada (CIC) and it was strongly recommended that the applicant not be granted permanent residence because of inadmissibility under paragraph 34(1)(*f*) of the Act (Tribunal Record, pp 333-38).

[7] On November 30, 2011, the applicant's counsel's assistant discussed the upcoming interview and the LF organization with the officer, who stated that she was not familiar with all the details of the organization but would research it before the interview (Applicant's Record, Assistant's Affidavit, p 26).

[8] The applicant was interviewed by CIC on December 5, 2011 (Tribunal Record, pp 265-68) and by the Canada Border Services Agency on March 7, 2012 (Tribunal Record, pp 176-91).

Following the December 5, 2011 interview, a decision was rendered by the CIC officer on May 31, 2012, deeming the applicant ineligible for permanent residence in Canada pursuant to paragraph 34(1)(*f*) of the Act. This decision is under review in the present application.

[9] After the commencement of the applicant's application for judicial review, the respondent (the Minister of Citizenship and Immigration) brought a motion for non-disclosure of portions of the Tribunal Record, in accordance with section 87 of the Act. An order of non-disclosure was granted on January 15, 2013 by Justice Noël.

[10] In a decision dated May 31, 2012, the officer concluded that the applicant was a member of the LF, that the LF is an organization that falls under paragraph 34(1)(*c*) of the Act, and that consequently, the applicant was inadmissible pursuant to paragraph 34(1)(*f*) of the Act.

Issues

[11] This case raises the following issues:

a. Did the officer breach principles of procedural fairness by failing to disclose documentation?

b. Was the officer's decision reasonable?

Relevant Legislation

[12] The following sections of the *Immigration and Refugee Protection Act* are the relevant statutory provisions in the present application for judicial review:

DIVISION 4	SECTION 4
INADMISSIBILITY	INTERDICTIONS DE TERRITOIRE

Rules of interpretation

33. The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.

Interprétation

33. Les faits – actes ou omissions – mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.

Security

34. (1) A permanent resident or a foreign national is inadmissible on security grounds for

(*a*) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;

(*b*) engaging in or instigating the subversion by force of any government;

(*c*) engaging in terrorism;

(*d*) being a danger to the security of Canada;

(*e*) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or

(*f*) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in

Sécurité

34. (1) Emportent interdiction de territoire pour raison de sécurité les faits suivants :

a) être l'auteur d'actes d'espionnage ou se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada;

b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force;

c) se livrer au terrorisme;

d) constituer un danger pour la sécurité du Canada;

e) être l'auteur de tout acte de violence susceptible de mettre en danger la vie ou la sécurité d'autrui au Canada;

f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas *a*), *b*)

paragraph (*a*), (*b*) or (*c*).	ou *c*).
Exception	Exception
(2) The matters referred to in subsection (1) do not constitute inadmissibility in respect of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.	(2) Ces faits n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national.

[13] Subsection 83.01(1) of the *Criminal Code*, RSC 1985, c C-46 [the *Criminal Code*] which defines "terrorist activity" is also relevant in establishing what constitutes "terrorism" for the purpose of paragraph 34(1)(*c*) of the Act. To facilitate reading, subsection 83.01(1) of the *Criminal Code* is reproduced in relevant parts in annex to this judgment.

Standard of review

[14] The jurisprudence has established that, given the factual component of this question, the appropriate standard of review to apply to immigration officers' determination of inadmissibility under subsection 34(1) of the Act is that of reasonableness (*Ugbazghi v Canada (Minister of Citizenship and Immigration)*, 2008 FC 694 at para 36, [2009] 1 FCR 454; *Villegas v Canada (Minister of Citizenship and Immigration)*, 2011 FC 105 at para 39-40, 95 Imm LR (3d) 261). The standard of reasonableness was described in *Dunsmuir v New Brunswick*, 2008 SCC 9 at para 47, [2008] 1 SCR 190 [*Dunsmuir*]. The Court will be "concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process", as well as "whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." (*Dunsmuir*, above at 47).

[15] When the issue of procedural fairness is raised, as is the case here, the question the Court must ask itself is whether the procedure employed was fair (*Pusat v Canada (Minister of Citizenship and Immigration)*, 2011 FC 428 at para 14, 388 FTR 49). The question of deference to the officer is not at issue when procedural fairness is concerned (*Canada (Citizenship and Immigration v Khosa*, 2009 SCC 12, [2009] 1 SCR 339).

Analysis

1) Procedural fairness

[16] The applicant has argued that, in the particular circumstances of this case, procedural fairness was breached. For the following reasons, the Court disagrees.

[17] The Federal Court of Appeal has stated in *Mancia v Canada (Minister of Citizenship and Immigration)*, [1998] 3 FC 461, 161 DLR (4th) 488 (FCA) [*Mancia*] that documents readily available from public sources which are general in nature (i.e. not relating to the applicant himself or prepared for the express purpose of the applicant's case) need not be disclosed. The Court notes that the applicant received a list of seven (7) sources, and was apparently able to locate three (3) of them. Given the applicant's counsel's difficulties in locating the remaining four (4) documents, she requested that the officer send her copies, but her request was declined. The applicant claims that the officer breached procedural fairness by refusing to send her copies of the documents. The Court cannot agree with this contention.

[18] Firstly, the applicant received a detailed list of references that were consulted by the officer (Applicant's Record, pp 34-35). Secondly, this list is comprised of public documents, none of which

were authored specifically for the applicant's case, related specifically to him, or were drafted and distributed internally at CIC or CSIS. Finally, although the applicant's counsel has submitted to this Court that her efforts in locating the said documents were unsuccessful (according to her, only three (3) of the seven (7) were found), nothing in the record before this Court allows it to conclude that the documents were unavailable. The only evidence is an email sent to the Immigration and Refugee Board by the applicant's counsel's assistant, requesting assistance in locating the documents (Applicant's Record, p 33). The applicant has not presented the Court with a response to this email. The record before this Court contains no other evidence showing that efforts were made with other institutions, or that any other steps were undertaken by the applicant's counsel. Although the applicant's counsel has submitted that she could not find the documents, the Court cannot conclude, based on the evidence in the record, that they were unavailable or that reasonable efforts were made with no conclusive results. The Court also notes that the additional documents listed in the final decision, which were not disclosed to the applicant, were all publicly available documents and needed not be disclosed pursuant to *Mancia*, above.

[19] The Court is satisfied that the applicant's interviews made him aware of the officer's concerns (May 3, 2007 by CSIS, Tribunal Record, pp 339-40; December 5, 2011 by CIC, Tribunal Record, pp 265-68). General concerns of membership to the LF were known to the applicant from 2007, and specific concerns regarding certain events and activities of the LF were brought to the applicant's attention in the December 2011 interview. The applicant knew what his burden was and what type of allegations were made by the officer. This knowledge and information guided his submissions filed after the December 2011 interview, in January 2012. In this particular context, *Kablawi v Canada (Minister of Citizenship and Immigration)*, 2009 FC 283 at para 12, [2009] FCJ

No 348 (QL) [*Kablawi, 2009*], on which the applicant relied, is distinguishable. For these reasons, the Court concludes that procedural fairness was not breached in the present circumstances.

2) Reasonableness of the decision

[20] From the outset, the Court agrees with the respondent that all sources used by the officer were reliable, trustworthy and credible. The applicant raises the following issues: i) that the officer erred by finding that the LF has engaged in acts of terrorism pursuant to paragraph 34(1)(*c*) of the Act, and ii) that the officer erred by finding that the applicant was a member of the LF.

[21] The applicant submits that the officer erred in concluding that the LF is an organization that engaged in terrorism. According to the applicant, this finding is not supported by the evidence and as such is unreasonable.

[22] In her decision, the officer listed nine (9) events which she considered were terrorist acts committed by the LF during the civil war in Lebanon, in chronological order:

a. Murder of Tony Frangié, leader of the Marada militia (June 1978)

b. Kidnapping of four (4) Iranian diplomats (June 1982)

c. Sabra and Chatila massacre involving civilians (September 1982)

d. Murder of Rachid Karameh, Lebanon's Prime Minister (June 1987)

e. Kidnapping of two (2) civilians: Husayn Bahij Ahmad and Husayn Ahmad Rumayti (November 1987)

f. Kidnapping of four (4) civilians on the Gardenia ship (December 1987)

g. Murder of Elias Al-Zayek, leader of an opponent Phalangist party (January 1990)

h. Murder of Dany Chamoun, political rival (October 1990)

i. Attempted murder of Michel El-Murr, Lebanon's Defence Minister (March 1991)

[23] The officer grouped these events as follows for her analysis: kidnappings, murders of political actors and the Sabra and Chatila massacre. She used the definition of "terrorist activity" found in the *Criminal Code* (subsection 83.01).

[24] The officer held that the purpose of the kidnappings was to terrorize the population and to have hostages available for trade. The officer examined several incidents of reported kidnappings and held that kidnapping civilians was a terrorist act because it endangered their lives and intimidated the population, causing it to fear for its safety. Using the kidnapped victims as a means to trade with other groups was also a way of controlling the population, groups and organizations. The officer concluded that the kidnappings and reported torture of kidnapped victims were acts of terrorism pursuant to clause 83.01(1)(*b*)(i)(B) when read with clauses 83.01(1)(*b*)(ii)(A) and (B) of the *Criminal Code*.

[25] After reviewing the documentary evidence, the Court observes that many of the documents referred to by the officer do not hold the LF directly responsible. For instance, with regards to the kidnapping of the four (4) Iranian diplomats, a document from Amnesty International dated July 9, 1997 (Source # 2), states the following:

> **Iranian Hostages**
>
> In June 1982 four Iranian diplomats, Ahmad Motavasselian, Mohammed-Taghi Rastegar Moghadam, Mohsen Musavi (*chargé d'affaires* at the Iranian Embassy) and Kazem Akhavan, a photographer, were abducted and later "disappeared". They were apparently arrested by members of the Lebanese Forces at a checkpoint near Beirut. Their fate and whereabouts remain unknown. […]

> It is possible that they were killed soon after their arrest. Families of the Iranian diplomats were reportedly told in 1990 by Samir Geagea, the leader of the Lebanese Forces, that they had been killed immediately after abduction. This account appeared to confirm the testimony of a former sergeant in the Lebanese Forces who had worked in the Qarantina Prison run by the Lebanese Forces.
>
> (Tribunal Record, p 92)
>
> [Emphasis added; citation omitted.]

[26] The same document stated the following with regards to the kidnappings of civilians Husayn Ahmad, Husayn Rumayti, and the four civilians on the Gardenia ship, events which took place in 1987:

> **Husayn Bahij Ahmad**, a worker in a shoe factory, born in 1967, was arrested with **Husayn Ahmad Rumayti**, born in 1962, who worked in a glass shop, on 16 November 1987 by the Lebanese Forces at a road block near Beirut. Both men are Shi'a Muslims. They were held at Adonis, a Lebanese Forces centre on the outskirts of Beirut where they were allegedly tortured. Their family only found out where they were after many months; they were then allowed to receive visits from their families and the ICRC. After two years' detention their families were told that they were not to visit any more as the detainees were to be moved.
>
> …
>
> **Ahmad Muhammad Taleb** and **Ahmad Bahij Jallul**, two sailors, **Ghassan Fares al-Dirani**, a bank clerk on his way to the United States, and **Husayn Muhammad Tlays**, on his way to Germany, were arrested by the Lebanese Forces in December 1987 from a ship, the *Gardenia*, in Beirut harbour. Other members of the crew and passengers arrested at the same time were eventually released, but these four continued to be held at Adonis.
>
> The families of the six, who saw them for the last time in December 1989, were never informed of their whereabouts. The last messages transmitted through the ICRC arrived in May 1990. Then they "disappeared".
>
> (Tribunal Record, p 94)
>
> [Emphasis added.]

[27] Other documents from the UNHCR (Tribunal Record, p 121) and Amnesty International (Tribunal Record, p 103) also make reference to the LF but the extent of the alleged involvement remains unclear.

[28] With regards to the murders of political actors, the officer referred to a source which indicated that the LF is responsible for the murder of Tony Frangié (Tribunal Record, p 72), while another only makes a general mention of Christian militia (Tribunal Record, p 107). For the murders of political actors Chamoun, Karameh, Zayek and El-Murr, the officer referred to a source from Amnesty International which indicates that Mr. Geagea's trial was unfair (Tribunal Record, p 77). While the New York Times and the BBC news articles published in the 1990s report that Mr. Geagea was found guilty of murdering Mr. Zayek (Tribunal Record, p 42), Mr. Karameh (Tribunal Record, p 43), and Mr. Chamoun and his family (Tribunal Record, p 44), the Amnesty International document dated November 2004 (Tribunal Record, p 77) describes the unfair nature of Mr. Geagea's trial and depicts human rights violations.

[29] However, the officer relies on the unfair nature of the trial in support of her conclusion. The Court therefore agrees with the applicant that it is unreasonable for the officer to openly acknowledge that Mr. Geagea's trial has been deemed unfair, and that his detention involved circumstances which violated human rights, but to still consider that the outcome of this trial can be the basis of her conclusions on the LF's responsibility for the murders of these political actors. More particularly, the officer stated:

> Bien que je sois consciente que M. Geagea n'a malheureusement pas bénéficié d'un procès correspondant à toutes les normes de droit internationales, il n'en reste pas moins qu'il a été accusé et reconnu coupable. Selon moi, malgré les imperfections du système ayant

> conduit à ses condamnations, le fait qu'il ait été accusé et condamné constitue un motif raisonnable de croire qu'il a commis les crimes qui lui sont reprochés.
>
> (Tribunal Record, p 9)

[30] With regards to the massacre at Sabra and Chatila in 1982, a source names the Phalangist movement under Bashir Gemayel as the responsible party (Tribunal Record, p 241). Specifically, "[a]n Israeli independent judicial inquiry found that the massacre was carried out by the Phalangists, but Israeli commanders bore responsibility for not preventing it." (Tribunal Record, p 241). Other sources subsume the Phalangist group under the LF, and generally identify it as the responsible actor for the Sabra and Chatila massacre (Tribunal Record, pp 19, 60, 73 and 258). The officer acknowledged the confusion in western reports with regards to the Phalangist movement and the LF, but nonetheless concluded that the LF was responsible.

[31] Although the respondent argued before this Court that the officer provided an analysis, the Court finds that the officer's analysis was insufficient to support her conclusion. Indeed, the nature of the documentation and the lack of direct evidence concerning the role of the LF deserved a more extensive analysis in order to support the officer's conclusion - i.e. the LF has engaged in acts of terrorism. On this point, Justice Mosley observed the following in *Jalil v Canada (Minister of Citizenship and Immigration)*, 2006 FC 246 at para 30, [2006] 4 FCR 471 :

> [30] …a determination that the organization to which the applicant belonged engaged or engages in terrorism must be supported by reasons that will withstand "a somewhat probing examination"…
>
> (Citation omitted.)

[32] The Court also makes reference to the case *Dirar v Canada (Minister of Public Safety and Emergency Preparedness)*, 2011 FC 246 at para 31, 385 FTR 133, where Justice Mactavish reiterated, in a similar context, the principle that the analysis must be conducted with great care:

> [31] The situation in Darfur is undoubtedly murky, and atrocities have been committed by both sides of the conflict. Nevertheless, a finding that an individual is inadmissible to Canada for being a member of a terrorist organization is a serious one, with extremely negative potential consequences for the individual involved. As a result, great care must be taken to ensure that the finding is properly made…

[33] On the basis of the evidence before the officer, the Court therefore finds that the officer's analysis was insufficient and it was thus unreasonable, in these circumstances, for the officer to determine that there were reasonable grounds to believe that the Lebanese Forces was an organization that engaged in acts described in subsections 34(1)(*a*), (*b*), (*c*).

[34] Given the Court's conclusion regarding the reviewable error committed by the officer in finding that the LF is an organization that has participated in terrorist activities, there is no need to address the membership issue.

[35] For all of these reasons, the decision of the officer does not fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir; Newfoundland and Labrador Nurses' Union v Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 SCR 708)). The application for judicial review will be allowed.

[36] The parties did not propose any question of general importance to be certified.

JUDGMENT

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is allowed;
2. The officer's decision is set aside and the matter remitted back for re-determination by a different officer in accordance with these reasons;
3. No question of general importance is certified.

"Richard Boivin"

Judge

Annex

The following is the relevant provision from the *Criminal Code*:

PART II.1	PARTIE II.1
TERRORISM	TERRORISME
INTERPRETATION	DEFINITIONS ET INTERPRETATION
Definitions	Définitions
83.01 (1) The following definitions apply in this Part.	**83.01** (1) Les définitions qui suivent s'appliquent à la présente partie.
…	[…]
"terrorist activity" « activité terroriste » "terrorist activity" means	« activité terroriste » "terrorist activity" « activité terroriste »
(*a*) an act or omission that is committed in or outside Canada and that, if committed in Canada, is one of the following offences:	*a*) Soit un acte – action ou omission, commise au Canada ou à l'étranger – qui, au Canada, constitue une des infractions suivantes :
(i) the offences referred to in subsection 7(2) that implement the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970,	(i) les infractions visées au paragraphe 7(2) et mettant en œuvre la Convention pour la répression de la capture illicite d'aéronefs, signée à La Haye le 16 décembre 1970,
(ii) the offences referred to in subsection 7(2) that implement the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971,	(ii) les infractions visées au paragraphe 7(2) et mettant en œuvre la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signée à Montréal le 23 septembre 1971,
(iii) the offences referred to in subsection 7(3) that implement the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973,	(iii) les infractions visées au paragraphe 7(3) et mettant en œuvre la Convention sur la prévention et la répression des infractions contre les personnes jouissant d'une protection internationale, y compris les agents diplomatiques, adoptée par l'Assemblée générale des Nations Unies le 14 décembre 1973,

(iv) the offences referred to in subsection 7(3.1) that implement the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979,

(v) the offences referred to in subsection 7(3.4) or (3.6) that implement the Convention on the Physical Protection of Nuclear Material, done at Vienna and New York on March 3, 1980,

(vi) the offences referred to in subsection 7(2) that implement the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988,

(vii) the offences referred to in subsection 7(2.1) that implement the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988,

(viii) the offences referred to in subsection 7(2.1) or (2.2) that implement the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988,

(ix) the offences referred to in subsection 7(3.72) that implement the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997, and

(x) the offences referred to in subsection 7(3.73) that implement the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December

(iv) les infractions visées au paragraphe 7(3.1) et mettant en œuvre la Convention internationale contre la prise d'otages, adoptée par l'Assemblée générale des Nations Unies le 17 décembre 1979,

(v) les infractions visées aux paragraphes 7(3.4) ou (3.6) et mettant en œuvre la Convention sur la protection physique des matières nucléaires, conclue à New York et Vienne le 3 mars 1980,

(vi) les infractions visées au paragraphe 7(2) et mettant en œuvre le Protocole pour la répression des actes illicites de violence dans les aéroports servant à l'aviation civile internationale, complémentaire à la Convention pour la répression d'actes illicites dirigés contre la sécurité de l'aviation civile, signé à Montréal le 24 février 1988,

(vii) les infractions visées au paragraphe 7(2.1) et mettant en œuvre la Convention pour la répression d'actes illicites contre la sécurité de la navigation maritime, conclue à Rome le 10 mars 1988,

(viii) les infractions visées aux paragraphes 7(2.1) ou (2.2) et mettant en œuvre le Protocole pour la répression d'actes illicites contre la sécurité des plates-formes fixes situées sur le plateau continental, conclu à Rome le 10 mars 1988,

(ix) les infractions visées au paragraphe 7(3.72) et mettant en œuvre la Convention internationale pour la répression des attentats terroristes à l'explosif, adoptée par l'Assemblée générale des Nations Unies le 15 décembre 1997,

(x) les infractions visées au paragraphe 7(3.73) et mettant en œuvre la Convention internationale pour la répression du financement du terrorisme, adoptée par l'Assemblée générale des Nations Unies le 9

9, 1999, or

(*b*) an act or omission, in or outside Canada,

(i) that is committed

(A) in whole or in part for a political, religious or ideological purpose, objective or cause, and

(B) in whole or in part with the intention of intimidating the public, or a segment of the public, with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act, whether the public or the person, government or organization is inside or outside Canada, and

(ii) that intentionally

(A) causes death or serious bodily harm to a person by the use of violence,

(B) endangers a person's life,

(C) causes a serious risk to the health or safety of the public or any segment of the public,

(D) causes substantial property damage, whether to public or private property, if causing such damage is likely to result in the conduct or harm referred to in any of clauses (A) to (C), or

(E) causes serious interference with or serious disruption of an essential service, facility or system, whether public or private, other than as a result of advocacy,

décembre 1999;

b) soit un acte – action ou omission, commise au Canada ou à l'étranger :

(i) d'une part, commis à la fois :

(A) au nom – exclusivement ou non – d'un but, d'un objectif ou d'une cause de nature politique, religieuse ou idéologique,

(B) en vue – exclusivement ou non – d'intimider tout ou partie de la population quant à sa sécurité, entre autres sur le plan économique, ou de contraindre une personne, un gouvernement ou une organisation nationale ou internationale à accomplir un acte ou à s'en abstenir, que la personne, la population, le gouvernement ou l'organisation soit ou non au Canada,

(ii) d'autre part, qui intentionnellement, selon le cas :

(A) cause des blessures graves à une personne ou la mort de celle-ci, par l'usage de la violence,

(B) met en danger la vie d'une personne,

(C) compromet gravement la santé ou la sécurité de tout ou partie de la population,

(D) cause des dommages matériels considérables, que les biens visés soient publics ou privés, dans des circonstances telles qu'il est probable que l'une des situations mentionnées aux divisions (A) à (C) en résultera,

(E) perturbe gravement ou paralyse des services, installations ou systèmes essentiels, publics ou privés, sauf dans le cadre de revendications, de protestations ou

protest, dissent or stoppage of work that is not intended to result in the conduct or harm referred to in any of clauses (A) to (C),

de manifestations d'un désaccord ou d'un arrêt de travail qui n'ont pas pour but de provoquer l'une des situations mentionnées aux divisions (A) à (C).

and includes a conspiracy, attempt or threat to commit any such act or omission, or being an accessory after the fact or counselling in relation to any such act or omission, but, for greater certainty, does not include an act or omission that is committed during an armed conflict and that, at the time and in the place of its commission, is in accordance with customary international law or conventional international law applicable to the conflict, or the activities undertaken by military forces of a state in the exercise of their official duties, to the extent that those activities are governed by other rules of international law.

Sont visés par la présente définition, relativement à un tel acte, le complot, la tentative, la menace, la complicité après le fait et l'encouragement à la perpétration; il est entendu que sont exclus de la présente définition l'acte — action ou omission — commis au cours d'un conflit armé et conforme, au moment et au lieu de la perpétration, au droit international coutumier ou au droit international conventionnel applicable au conflit ainsi que les activités menées par les forces armées d'un État dans l'exercice de leurs fonctions officielles, dans la mesure où ces activités sont régies par d'autres règles de droit international.

…

[…]

SOLICITORS OF RECORD

DOCKET:	IMM-6262-12
STYLE OF CAUSE:	JOHN MICHEAL SUCCAR v MCI
PLACE OF HEARING:	Ottawa, Ontario
DATE OF HEARING:	February 13, 2013
REASONS FOR JUDGMENT:	BOIVIN J.
DATED:	March 1, 2013

APPEARANCES:

Nicole Goulet	FOR THE APPLICANT
Talitha Nabbali	FOR THE RESPONDENT

SOLICITORS OF RECORD:

Law firm of Nicole Goulet Gatineau, Quebec	FOR THE APPLICANT
William F. Pentney Deputy Attorney General of Canada	FOR THE RESPONDENT