

Federal Court



Cour fédérale

Date: 20171108

Docket: IMM-1753-17

Citation: 2017 FC 1015

[ENGLISH TRANSLATION]

Montreal, Quebec, November 8, 2017

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Applicant

and

IURI VERBANOV

Respondent

JUDGMENT AND REASONS

I. Background

[1] “How is it possible not to know, not to hear, not to see and, yet, to be an integral member, voluntarily!” (*Ali v Canada (Solicitor General)*, 2005 FC 1306 at paragraph 1 [*Ali*]; see also *Ezokola v Canada (Citizenship and Immigration)*, 2013 SCC 40 [*Ezokola*]).

[2] “A plaintiff’s actions can be more revealing than his testimony and the circumstances may be such that it can be inferred that a person shares the objectives of those with whom he is collaborating” (*Harb v Canada (Minister of Citizenship and Immigration)*, 2003 FCA 39 at paragraph 27 [*Harb*]; see also *Ezokola*, above).

[3] “[W]here one hears of persons arrested and tortured, it appears to me, to be totally unbelievable that one would not have knowledge of what is taking place” (*Shakarabi v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 7685 (FC), [1998] FCJ No. 444 (QL) at paragraph 25 [*Shakarabi*]; see also *Ezokola*, above). “According to the Prosecutor General’s office, most abuses occurred at the time of apprehension; during transport to a detention facility” (Applicant’s record, at page 98).

II. Nature of the matter

[4] This is an application for judicial review pursuant to subsection 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] of a decision rendered on April 3, 2017, by the Immigration Appeal Division [IAD] of the Immigration and Refugee Board. In that decision, the member dismissed the appeal filed by the Minister of Public Safety and Emergency Preparedness [MPSEP] under subsection 63(5) of the IRPA from the decision rendered on April 16, 2015, by the Immigration Division [ID]. The ID found that the respondent was not inadmissible pursuant to paragraphs 35(1)(a) and 36(1)(c) of the IRPA.

III. Facts

[5] The respondent, age 31, is a citizen of Moldova. On July 12, 2011, he became a permanent resident of Canada after being selected as a member of the economic class, through his spouse, who is a skilled worker.

[6] In his application for permanent residence, the respondent reported that he was employed as a police officer in Moldova. He had achieved the rank of “plutonier junior” [junior sergeant]. He was responsible for repressing pickpocketing on public transit and around the central market of Chisinau, the capital of Moldova.

[7] From 2007 to 2011, the respondent worked in the department for combatting crime in public places and on urban transport, at the Chisinau general police station. He worked as a non-commissioned officer, without weapons or handcuffs, and in groups of three or four police officers. He went to the general police station about three times a week, either to attend a unit meeting or to write an incident report after an arrest.

[8] During the demonstrations that took place after the elections of April 5, 2009, the respondent was assigned to accompany a colleague tasked with filming the demonstrations. The demonstration on April 7, 2009, was peaceful, according to the respondent. In the afternoon, the respondent had to leave the site of the demonstrations because he received a call from his wife, who had to be taken to the hospital. In the days that followed, the respondent reportedly stayed

by his wife's side at the hospital, following a surgery. He subsequently returned to his work in public places as usual.

[9] On April 27, 2013, a wanted notice was issued by Interpol for the respondent for an event dating back to February 4, 2010. The respondent, and other Moldovan police officers, had been accused of being involved in violent acts and abuse.

[10] As soon as the respondent found out about the charges against him, he returned to Moldova to defend himself before the courts. On March 17, 2014, the Buiucani Court of the Municipality of Chisinau rendered a judgment dismissing the criminal proceedings against the respondent on the ground that the act alleged in the complaint did not correspond to the constituent elements of the offence.

[11] On December 20, 2013, two inadmissibility reports were issued by the Canada Border Services Agency regarding allegations of inadmissibility within the meaning of paragraphs 36(1)(c) and 35(1)(a) of the IRPA. The same day, the Minister's delegate referred those reports to the ID for an admissibility hearing.

[12] In a decision dated April 16, 2015, the ID found that the respondent was not inadmissible within the meaning of paragraphs 36(1)(c) and 35(1)(a) of the IRPA. During the hearing, the respondent gave a clear, specific, credible and trustworthy testimony. The ID noted a contradiction between Interpol's wanted notice and the judgment by the competent Moldovan court dismissing the criminal complaint against the respondent. The ID therefore gave little

probative value to the MPSEP's evidence. Furthermore, the ID could not, on the basis of generalizations or suspicions, attribute certain acts involving some Moldovan police officers to the entire Moldovan police force, including the respondent. According to the ID, the MPSEP failed to demonstrate that either the respondent or the police officers that belonged to his department had "committed acts of violence and/or acts of torture against accused individuals which could constitute crimes against humanity." The MPSEP therefore appealed the ID's decision before the IAD under subsection 63(5) of the IRPA, on the basis of the allegation in paragraph 35(1)(a) of the IRPA.

IV. Decision

[13] On April 3, 2017, the IAD dismissed the MPSEP's appeal from the ID's decision rendered on April 16, 2015.

[14] The IAD considered the respondent's testimony to be plausible and credible. With respect to the demonstrations in Moldova on April 6 to 8, 2009, the IAD found, on a balance of probabilities, that the respondent had been taking care of his wife at the hospital for much of that time and that it was plausible that police officers with the respondent's expertise were assigned somewhere other than in the affected zones. Moreover, with respect to the charges that were brought against the respondent in Moldova, the IAD determined that Interpol's wanted notice and the evidence clearly indicated that those charges had been withdrawn by the Moldovan courts of law. The IAD also considered it important to mention that the respondent voluntarily returned to his country to defend himself as soon as he became aware of the charges against him. According to the IAD, the respondent's behaviour was inconsistent with that of someone who

would avoid returning to his country to attempt to hide a crime. The IAD therefore took this factor into consideration before making its decision.

[15] In addition, according to the evidence, the IAD found that certain crimes committed by some Moldovan police officers could be seen as isolated or even systematic incidents and could be considered crimes against humanity. However, the IAD found that the applicant had failed to demonstrate that the respondent was among those police officers who committed those crimes. On a balance of probabilities, the IAD found that this would effectively render all police officers inadmissible if they come from a country, like Moldova, with corruption, abuse and acts of retaliation against the civilian population. The IAD confirmed the ID's decision. Considering all the evidence, "neither the respondent nor his unit, on a balance of probabilities, committed acts of violence or torture against individuals that could constitute crimes against humanity. The appeal is dismissed." That decision is the subject of this application for judicial review.

V. Issue

[16] The only issue is the following: Did the IAD err in fact and in law in finding that the respondent was not inadmissible pursuant to paragraph 35(1)(a) of the IRPA?

[17] A determination that a person is inadmissible is a question of mixed fact and law subject to the standard of reasonableness (*Williams v Canada (Public Safety and Emergency Preparedness)*, 2015 FC 917 at paragraph 14; *Qureshi v Canada (Citizenship and Immigration)*, 2012 FC 335 at paragraph 12). Consequently, the Court will not intervene if the IAD's 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 at paragraph 47 [*Dunsmuir*]).

VI. Relevant provisions

[18] The following provisions of the IRPA are relevant in this case:

Inadmissibility

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.

Human or international rights violations

35 (1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for

(a) committing an act outside Canada that constitutes an offence referred to in sections 4 to 7 of the Crimes Against Humanity and War Crimes Act;

(b) being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity within

Interdictions de territoire

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.

Atteinte aux droits humains ou internationaux

35 (1) Emportent interdiction de territoire pour atteinte aux droits humains ou internationaux les faits suivants :

a) commettre, hors du Canada, une des infractions visées aux articles 4 à 7 de la Loi sur les crimes contre l'humanité et les crimes de guerre;

b) occuper un poste de rang supérieur — au sens du règlement — au sein d'un gouvernement qui, de l'avis du ministre, se livre ou s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou commet ou a commis un

the meaning of subsections 6(3) to (5) of the Crimes Against Humanity and War Crimes Act;

(c) being a person, other than a permanent resident, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association;

(d) being a person, other than a permanent resident, who is currently the subject of an order or regulation made under section 4 of the Special Economic Measures Act on the grounds that any of the circumstances described in paragraph 4(1.1)(c) or (d) of that Act has occurred; or

(e) being a person, other than a permanent resident, who is currently the subject of an order or regulation made under section 4 of the Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law).

Right of Appeal

génocide, un crime contre l'humanité ou un crime de guerre au sens des paragraphes 6(3) à (5) de la Loi sur les crimes contre l'humanité et les crimes de guerre;

c) être, sauf s'agissant du résident permanent, une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure d'une organisation internationale d'États ou une association d'États dont le Canada est membre et qui impose des sanctions à l'égard d'un pays contre lequel le Canada a imposé — ou s'est engagé à imposer — des sanctions de concert avec cette organisation ou association;

d) être, sauf dans le cas du résident permanent, une personne présentement visée par un décret ou un règlement pris, au motif que s'est produit l'un ou l'autre des faits prévus aux alinéas 4(1.1)c) ou d) de la Loi sur les mesures économiques spéciales, en vertu de l'article 4 de cette loi;

e) être, sauf dans le cas du résident permanent, une personne présentement visée par un décret ou un règlement pris en vertu de l'article 4 de la Loi sur la justice pour les victimes de dirigeants étrangers corrompus (loi de Sergueï Magnitski).

Droit d'appel

Right of appeal — Minister

63 (5) The Minister may appeal to the Immigration Appeal Division against a decision of the Immigration Division in an admissibility hearing.

Droit d'appel du ministre

63 (5) Le ministre peut interjeter appel de la décision de la Section de l'immigration rendue dans le cadre de l'enquête.

[19] Subsections 6(1) and 6(3) of the *Crimes Against Humanity and War Crimes Act*, SC 2000, c 24, should also be read in conjunction with paragraph 35(1)(a) of the IRPA:

Offences Outside Canada**Genocide, etc., committed outside Canada**

6 (1) Every person who, either before or after the coming into force of this section, commits outside Canada

- (a) genocide,
- (b) a crime against humanity, or
- (c) a war crime,

is guilty of an indictable offence and may be prosecuted for that offence in accordance with section 8.

...

Definitions

(3) The definitions in this subsection apply in this section.

crime against humanity
means murder, extermination,

Infractions commises à l'étranger**Génocide, crime contre l'humanité, etc., commis à l'étranger**

6 (1) Quiconque commet à l'étranger une des infractions ci-après, avant ou après l'entrée en vigueur du présent article, est coupable d'un acte criminel et peut être poursuivi pour cette infraction aux termes de l'article 8 :

- a) génocide;
- b) crime contre l'humanité;
- c) crime de guerre.

[...]

Définitions

(3) Les définitions qui suivent s'appliquent au présent article.

crime contre l'humanité
Meurtre, extermination,

enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

genocide means an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

war crime means an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war

réduction en esclavage, déportation, emprisonnement, torture, violence sexuelle, persécution ou autre fait — acte ou omission — inhumain, d'une part, commis contre une population civile ou un groupe identifiable de personnes et, d'autre part, qui constitue, au moment et au lieu de la perpétration, un crime contre l'humanité selon le droit international coutumier ou le droit international conventionnel ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu.

crime de guerre Fait — acte ou omission — commis au cours d'un conflit armé et constituant, au moment et au lieu de la perpétration, un crime de guerre selon le droit international coutumier ou le droit international conventionnel applicables à ces conflits, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu.

génocide Fait — acte ou omission — commis dans l'intention de détruire, en tout ou en partie, un groupe identifiable de personnes et

crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission.

constituant, au moment et au lieu de la perpétration, un génocide selon le droit international coutumier ou le droit international conventionnel, ou en raison de son caractère criminel d'après les principes généraux de droit reconnus par l'ensemble des nations, qu'il constitue ou non une transgression du droit en vigueur à ce moment et dans ce lieu.

[20] Crimes against humanity are also defined in Article 7 of the *Rome Statute of the International Criminal Court*:

Crimes against humanity

1. For the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced

Crimes contre l'humanité

1. Aux fins du présent Statut, on entend par crime contre l'humanité l'un quelconque des actes ci-après lorsqu'il est commis dans le cadre d'une attaque généralisée ou systématique lancée contre toute population civile et en connaissance de cette attaque :

- a) Meurtre;
- b) Extermination;
- c) Réduction en esclavage;
- d) Déportation ou transfert forcé de population;
- e) Emprisonnement ou autre forme de privation grave de liberté physique en violation des dispositions fondamentales du droit international;
- f) Torture;
- g) Viol, esclavage sexuel, prostitution forcée, grossesse

pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

(i) Enforced disappearance of persons;

(j) The crime of apartheid;

(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

(a) 'Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

forcée, stérilisation forcée ou toute autre forme de violence sexuelle de gravité comparable;

h) Persécution de tout groupe ou de toute collectivité identifiable pour des motifs d'ordre politique, racial, national, ethnique, culturel, religieux ou sexiste au sens du paragraphe 3, ou en fonction d'autres critères universellement reconnus comme inadmissibles en droit international, en corrélation avec tout acte visé dans le présent paragraphe ou tout crime relevant de la compétence de la Cour;

i) Disparitions forcées de personnes;

j) Crime d'apartheid;

k) Autres actes inhumains de caractère analogue causant intentionnellement de grandes souffrances ou des atteintes graves à l'intégrité physique ou à la santé physique ou mentale.

2. Aux fins du paragraphe 1 :

a) Par « attaque lancée contre une population civile », on entend le comportement qui consiste en la commission multiple d'actes visés au paragraphe 1 à l'encontre d'une population civile quelconque, en application ou dans la poursuite de la politique d'un État ou d'une organisation ayant pour but une telle attaque ;

VII. Submissions of the parties

A. *Submissions of the applicant*

[21] According to the applicant, the IAD erred in fact and in law in finding that the respondent was not inadmissible pursuant to paragraph 35(1)(a) of the IRPA. In fact, the IAD allegedly committed a clear error of law by applying the “balance of probabilities” standard of evidence to the facts a number of times. The IAD also required that the allegations be proven according to that same standard of evidence, whereas for the application of section 35 of the IRPA, the standard of evidence is provided in section 33 of the IRPA, namely “reasonable grounds to believe”.

[22] The applicant also argues that the IAD failed to apply the principles and test for the notion of complicity set out by the Supreme Court of Canada in *Ezokola*, above. The IAD allegedly failed to determine whether the respondent’s participation was voluntary, knowing and significant (*Ezokola*, above, at paragraph 84). The applicant does not understand how the respondent could claim to be unaware that acts of torture were committed by Moldovan police officers during interrogations at the Chisinau police station. In *Hadhiri v Canada (Citizenship and Immigration)*, 2016 FC 1284 at paragraph 36 [*Hadhiri*], Justice René LeBlanc notes, referring to paragraph 68 of *Ezokola*, above, that it “is permissible to find individuals guilty of complicity under international law if they have knowingly or recklessly made a significant contribution to a crime or criminal purpose of the group to which they are associated”. Thus, the IAD should have considered the possibility that a person could have committed a crime against

humanity, even if that person did not personally commit an act that constitutes such a crime (*Ezokola*, above, at paragraph 77).

[23] The applicant submits that the IAD ignored considerable documentary evidence pertaining to the violent acts perpetrated by the Moldovan police, in particular at the Chisinau police station. The evidence indicates that during the years the respondent was employed as a police officer, the Moldovan police force committed acts of torture and abuse against detained individuals. The evidence also indicates that those acts were widespread and systematic, particularly at the Chisinau police stations, at the custody stage and during interrogations. In this regard, the applicant cites subsection 6(3) of the *Crimes Against Humanity and War Crimes Act* to indicate that “torture” and “inhumane act” are included in the definition that is given for “crime against humanity”. Still relying on the evidence in the record, it is also alleged that the IAD incorrectly assessed the evidence regarding the number of police officers present at the demonstrations on April 6 to 8, 2009.

B. *Submissions of the respondent*

[24] Contrary to the applicant’s allegations, the respondent essentially argues that the crimes committed by some police officers in Moldova are not crimes against humanity within the meaning of customary international law (*Mugesera v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 40 at paragraph 151 [*Mugesera*]). The IAD allegedly found only that a certain isolated act committed by some Moldovan police officers “could” be considered a crime against humanity. The respondent also submits that, according to the documentary evidence, Moldova is considered to be a democratic country that prohibits torture and cruel treatment.

Lastly, the respondent alleges that, according to the evidence in the record, the Moldovan police force is not an organization that is principally directed to a limited and brutal purpose. It was therefore reasonable for the IAD not to declare the respondent complicit in crimes against humanity for mere membership in the police force. In this regard, the IAD recognized that it was important to make “a distinction between mere association and culpable complicity”.

[25] The respondent also submits that “[o]nly the attack needs to be widespread or systematic, not the act of the accused” (*Mugesera*, above, at paragraph 156). In accordance with Article 7(1) of the *Rome Statute*, the respondent states that there must be knowledge of a widespread or systematic attack to meet the definition of a crime against humanity. In this case, the respondent denies having been aware of acts of torture and inhumane treatment perpetrated by some police officers. Finally, the documentary evidence does not demonstrate that some Moldovan police officers committed crimes as part of a widespread and/or systematic attack; according to the respondent, these crimes were instead committed for purely personal reasons. Consequently, the respondent argues that the notion of complicity in *Ezokola*, above, did not have to be analyzed in this case. The respondent submits that the IAD nevertheless considered the principles and test set out by the Supreme Court of Canada in *Ezokola*.

[26] Lastly, the respondent submits that the argument that the IAD applied the wrong standard of evidence was largely unimportant. Neither the MPSEP nor the applicant had submitted evidence demonstrating that the crimes committed by some Moldovan police officers constitute crimes against humanity. For that reason alone, the respondent asserts that this application must be dismissed. The IAD’s decision was reasonable, in light of all the evidence.

C. *Reply*

[27] In reply, the applicant notes that the IAD has *de novo* jurisdiction. It can therefore substitute its own decision for that which should have been made (*Mendoza v Canada (Public Safety and Emergency Preparedness)*, 2007 FC 934 at paragraph 18; *Iyamuremye v Canada (Citizenship and Immigration)*, 2014 FC 494 at paragraph 34).

[28] The applicant again raises the issue of the standard of evidence, specifying that the IAD failed to determine whether the respondent was in fact inadmissible pursuant to section 33 of the IRPA (*Castellon Viera v Canada (Citizenship and Immigration)*, 2012 FC 1086 at paragraph 26). The IAD allegedly erred in law by requiring the applicant to establish, among other things, that the majority or most of the police officers had been present at the demonstrations on April 6 to 8, 2009.

[29] Lastly, the applicant alleges that the IAD did not analyze *Mugesera* in making its decision and that the respondent was not required to do so, either. Based on the documentary evidence, the applicant nevertheless submits that the acts committed by the Moldovan police meet the definition of crimes against humanity that is presented in *Mugesera*.

VIII. Analysis

[30] “How is it possible not to know, not to hear, not to see and, yet, to be an integral member, voluntarily!” (*Ali*, above, at paragraph 1; see also *Ezokola*, above).

[31] “A plaintiff’s actions can be more revealing than his testimony and the circumstances may be such that it can be inferred that a person shares the objectives of those with whom he is collaborating” (*Harb*, above, at paragraph 27; see also *Ezokola*, above).

[32] “[W]here one hears of persons arrested and tortured, it appears to me, to be totally unbelievable that one would not have knowledge of what is taking place” (*Shakarabi*, above, at paragraph 25; see also *Ezokola*, above). “According to the Prosecutor General’s office, most abuses occurred at the time of apprehension; during transport to a detention facility” (Applicant’s record, at page 98).

[33] For the reasons that follow, this application for judicial review is allowed.

[34] First, the Court notes that it is not required to intervene in this matter unless it is to draw a different conclusion than the IAD (*Hadhiri*, above, at paragraph 46).

[35] Next, it is appropriate to list the factors used to assess whether an individual has voluntarily made a significant and knowing contribution to a crime or criminal purpose (*Ezokola*, above, at paragraph 91):

- (i) the size and nature of the organization;
- (ii) the part of the organization with which the refugee claimant was most directly concerned;
- (iii) the refugee claimant’s duties and activities within the organization;
- (iv) the refugee claimant’s position or rank in the organization;

(v) the length of time the refugee claimant was in the organization, particularly after acquiring knowledge of the group's crime or criminal purpose; and

(vi) the method by which the refugee claimant was recruited and the refugee claimant's opportunity to leave the organization.

[The Court's emphasis]

[36] In light of the documentary evidence in the record, the respondent was aware of the nature and extent of the criminal activities of the Moldovan police force. The facts indicate that the respondent could not have been in his department and been completely unaware of the acts of torture perpetrated by his own colleagues. The facts in the record also demonstrate that the respondent voluntarily became a police officer in 2007. He remained in the organization until 2011, without disassociating himself from the group. Even though the IAD found that the respondent's testimony was credible, the fact remains that, according to the material facts in the record, there were reasonable grounds to believe that the respondent was complicit in those crimes. In rendering its decision, the IAD therefore failed to consider the possibility that the respondent was aware of the crimes perpetrated by the Moldovan police. The IAD failed to examine the respondent's actions to determine his complicity and instead decided to prefer the respondent's testimony in this case.

[37] Consequently, the Court is satisfied that the IAD's decision is unreasonable and that it does not fall within a range of possible, acceptable outcomes which are defensible in respect of the facts and law (*Dunsmuir*, above, at paragraph 47).

IX. Conclusion

[38] This application for judicial review is allowed.

JUDGMENT in IMM-1753-17

THIS COURT'S JUDGMENT is that the application for judicial review is allowed and the case is referred back for redetermination by a different panel of the Immigration Appeal Division of the Immigration and Refugee Board. There is no question of importance to be certified.

“Michel M.J. Shore”

Judge

Certified true translation
This 27th day of January 2020

Lionbridge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-1753-17

STYLE OF CAUSE: THE MINISTER OF CITIZENSHIP AND
IMMIGRATION v IURII VERBANOV

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: OCTOBER 31, 2017

JUDGMENT AND REASONS: SHORE J.

DATED: NOVEMBER 8, 2017

APPEARANCES:

Lisa Maziade

FOR THE APPLICANT

Igor Dogaru

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Montreal, Quebec

FOR THE APPLICANT

Idlex Legal Services Inc.
Montreal, Quebec

FOR THE RESPONDENT