Federal Court  Cour fédérale

Date: 20221014

Docket: IMM-974-21

Citation: 2022 FC 1403

Ottawa, Ontario, October 14, 2022

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

NADINE AMHAZ

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Nadine Amhaz, seeks judicial review of a decision by a senior immigration officer (the "Officer") of Immigration, Refugees and Citizenship Canada ("IRCC") dated January 29, 2021, denying the Applicant's humanitarian and compassionate ("H&C") grounds application for permanent residence. The Officer found that there were insufficient

evidence to justify granting H&C relief to the Applicant under subsection 25(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 ("*IRPA*").

[2] The Applicant based her H&C application on her establishment in Canada, the best interests of her children ("BIOC"), and the risk and adverse conditions in Lebanon. Reviewing these considerations in light of the evidence, the Officer did not find that an exemption under section 25 of *IRPA* was justified.

[3] The Applicant submits that the Officer's decision is unreasonable because it was not alive, alert, and sensitive to the BIOC directly affected by the application. She also submits that the Officer failed to properly assess her subsequent submissions regarding the worsening country conditions in Lebanon or reasonably consider their impact on the Applicant and her children.

[4] For the reasons that follow, I find the Officer's decision is reasonable. This application for judicial review is dismissed.

II. Facts

A. *The Applicant*

[5] The Applicant is a 41-year-old citizen of Lebanon. She has two children who are Canadian citizens by birth. They are eight and three years of age respectively. The Applicant entered Canada two times before on a Temporary Resident Visa ("TRV"), in February 2014, when her eldest son was born, and December 2018, when her younger son was born. The

Applicant and her children entered Canada again on September 19, 2019, on a TRV issued in Saudi Arabia. They have remained in Canada since then. The Applicant and her children currently live with her sister and her sister's three children in Mississauga, Ontario.

[6] The Applicant does not have any employment history in Canada. She has a Bachelor of Science in Banking and Finance from the Lebanese-American University in Beirut. The Applicant also has work experience as an administrator in Lebanon and Saudi Arabia from 1998 to 2014.

[7] The Applicant's husband, Bachar Kobeissi (Mr. "Kobeissi"), lives and works in Saudi Arabia. He supports the Applicant and the children financially, with a monthly salary of approximately $7,000. Mr. Kobeissi was a permanent resident of Canada but was informed in November 2020 that he failed to comply with the residency obligations under section 28 of IRPA and thereby lost his status. Mr. Kobeissi was not present in Canada from April 2014 to November 2020.

[8] On October 25, 2019, the Applicant applied for permanent residency from within Canada based on H&C considerations.

B. *Decision Under Review*

[9] The Officer denied the Applicant's H&C application in a decision dated January 29, 2021. Considering each factor the Applicant advanced — establishment, BIOC, and adverse

country conditions — the Officer found insufficient evidence to warrant an exemption under section 25 of *IRPA.*

[10] On the issue of establishment, the Officer considered both familial and financial establishment. The Officer noted that the Applicant and her children currently live with her sister, which the Applicant claims has helped the two families connect with one another. However, the Officer found no evidence to conclude that the Applicant's connection with her sister would be negatively impacted if she continued correspondence through other means, such as telephone, video calls, and other digital communication. The Officer also noted the Applicant's husband's continuous absence from Canada from April 2014 to November 2020, with his last trip to Canada being only 34 days long. The Officer therefore did not grant more than minimal weight to the Applicant's familial establishment in Canada.

[11] Considering financial establishment, the Officer was satisfied with Mr. Kobeissi's ability to financially support the Applicant and their children from abroad. The Officer found no evidence to support the finding that this financial support could not continue if the Applicant were to return to Lebanon.

[12] On the BIOC, the Officer considered the Applicant's submissions regarding the risks they would face if they were to go to school in Lebanon. First, the Applicant provided evidence concerning the high pollution rate in Lebanon, particularly the near-capacity Borj Hammoud landfill in Beirut. The Officer did not find that the Applicant and the children would be directly

impacted by this pollution, or that the levels of pollution are generally adverse relative to Canada.

[13] Second, the Applicant submitted that the tension at the Israel-Lebanon border could escalate into a new war. Acknowledging that the geo-political situation in the region is not always stable, the Officer found that the Applicant did not provide persuasive evidence to show that she or her children would be impacted by these rising tensions or that they would likely to lead to a state of war.

[14] Third, the Applicant provided evidence to show that Lebanese schools often employ corporal punishment. The Officer acknowledged the issue of corporal punishment identified by the evidence and noted sympathy for the Applicant's concern for her children's safety in school. However, the Officer noted the evidence was approximately seven years old and did not speak to the prevalence of corporal punishment in Lebanese schools today, to show that the Applicant's children would likely face the same issues.

[15] The Officer ultimately found that the Applicant provided insufficient evidence to show that her children's health, education, or well-being would be negatively impacted upon return to Lebanon. The Officer recognized that the BIOC is an important consideration, but also noted that it does not supersede all other case elements and, in this case, the Applicant's submissions and evidence did not warrant granting it more than moderate weight.

[16] On the last consideration of risk and adverse country conditions in Lebanon, the Officer analysed evidence concerning high unemployment rates, lack of electricity, and a wavering health care system. While the Officer accepted that this evidence shows that conditions in Lebanon are not always ideal, the evidence was generalized to the Lebanese population and did not show how the Applicant and her children would be affected by these factors. The Officer also recognized Mr. Kobeissi's financial support as a mitigating factor to any impact the Applicant and her children might face in light of the negative economic conditions in Lebanon.

[17] The Officer ultimately found insufficient evidence in the Applicant's case to warrant an H&C exemption under section 25 of *IRPA* and therefore dismissed the application.

III. Issue and Standard of Review

[18] The sole issue arising on this application for judicial review is whether the Officer's decision is reasonable.

[19] The standard of review is not disputed. The Respondent submits, and the Applicant does not dispute, that the presumptive 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.

[20] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). 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 reasonable

decision 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).

IV. Analysis

[21] The Applicant makes two main submissions: (1) that the Officer was not alive, alert and sensitive in the BIOC assessment, and (2) that the Officer erred in analysing the hardship the Applicant and her children would face in Lebanon, particularly by requiring proof of personal impact. The Applicant did not dispute the Officer's findings on her establishment in Canada.

[22] On the BIOC assessment, the Applicant submits that the Officer did not adequately consider the additional evidence submitted in January 2021 regarding Lebanon's current state of economic collapse, food shortage and struggling health sector. The Applicant submits that the Officer's reasons do not show a consideration of this additional evidence or an assessment of the implications of this evidence on the BIOC, rendering the decision unreasonable.

[23] On the hardship analysis, the Applicant submits that the Officer erred in finding that the Applicant's additional evidence showed no personal or direct impact to the Applicant and was therefore unpersuasive. Citing *Shah v Canada (Citizenship and Immigration)*, 2011 FC 1269 and *Diabate v Canada (Citizenship and Immigration)*, 2013 FC 129, the Applicant submits that

requiring an individual to establish personal risk beyond that faced by other people in the country of return is erroneous.

[24] The Respondent submits that the Officer's reasons show attentiveness to each consideration advanced by the Applicant in her H&C application. The Respondent submits that the Officer considered the submissions and evidence proffered by the Applicant and reasonably found that they did not reveal a personal or direct threat to the Applicant or her children. In response to the Applicant's submissions regarding the additional evidence, the Respondent submits that the decision demonstrates a reasonable assessment of these issues when read as a whole. The Respondent cites *Caleb v Canada (Citizenship and Immigration)*, 2020 FC 1018, where this Court found that identifying mitigating factors to the impact of a child's removal does not mean that the impact was discounted or that an incorrect standard of hardship was applied.

[25] In my view, the Officer's decision is reasonable. I agree with the Respondent that the role of this Court on judicial review is to review the decision as a whole (*Vavilov* at para 15). When done so, the Officer's reasons demonstrate a categorical assessment of the issues raised by the Applicant. Each consideration, and the evidence to support it, is thoroughly assessed in light of the impact on the Applicant and her children, exhibiting the justification, transparency and intelligibility required of a reasonable decision (*Vavilov* at para 99).

[26] On the BIOC, the Officer clearly reviewed the evidence concerning Lebanon's pollution rate, the tensions at the border, and the use of corporal punishment in schools. The Officer gave reasons for granting minimal or moderate weight to each of these factors, explaining that there

was little evidence to show that the pollution from Beirut's landfill, the tensions at the border, and the dated evidence surrounding corporal punishment would result in direct or personal impacts to the Applicant's children. It is not this Court's role to reweigh or reassess this evidence and the Officer's detailed analysis of the evidence shows that it is justified in light of the facts of the case (*Vavilov* at paras 125-126).

[27] The Applicant submits that the Officer committed a reviewable error by failing to properly assess the further evidence concerning Lebanon's current economic collapse, both in light of the BIOC and the hardship this may cause the Applicant. I disagree. The Supreme Court in *Vavilov* states that "review of the decision as a whole is especially vital when an applicant alleges that an administrative decision contains material omissions" and that "decision-makers are not required to consider and comment upon every issue raised by the parties in their reasons" (at para 301). Immigration decision-makers are not required to mention every piece of evidence and a failure to do so does not equate to a finding that the evidence was not considered (*Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1999] 157 FTR 35 at para 16; *Singh v Canada (Citizenship and Immigration)*, 2022 FC 1144 at para 28).

[28] Reviewing the decision holistically, the Officer's reasons exhibit a mindfulness to the Applicant's further submissions regarding the economic collapse in Lebanon. The Officer acknowledged that "the geopolitical situation in Lebanon and the surrounding region is not always as stable as that of Canada," and "empathize[d] with the client's concerns for her safety and that of her children." The Officer also accepts that the country evidence shows that

"conditions in Lebanon are not always ideal" and makes particular note of the rising unemployment and the strain on the health care system.

[29] Ultimately, the Officer's role is to assess this evidence in light of Applicant's particular circumstances. The Officer reasonably recognized the several mitigating factors to hardship that the Applicant or her children might face upon return to Lebanon. This includes her husband's continuing financial support with his income of approximately $7,000 per month, which is not predicated on her remaining in Canada, her university education, and her extensive employment history in Lebanon and Saudi Arabia.

[30] I do not agree that an explanation of how certain factors in the case mitigate the Applicant and her children's potential hardship means that these factors were not considered. I also do not agree that finding insufficient evidence to show that the Applicant or her children would themselves be affected by general country conditions applies an unnecessary burden or is a failure to properly consider the evidence. In my view, the reasons for the decision show that the Officer reasonably analysed the evidence in the context of the Applicant's case.

V. Conclusion

[31] This application for judicial review is dismissed. The Officer's decision to deny this application for permanent residency on H&C grounds was reasonable. The Officer's reasons thoroughly assessed the evidence in light of the relevant considerations and in the Applicant's particular context, and was therefore justified, transparent and intelligible. No questions for certification were raised, and I agree that none arise.

JUDGMENT in IMM-974-21

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question to certify.

"Shirzad A."
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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