

Federal Court



Cour fédérale

**Date: 20230322**

**Docket: IMM-1525-22**

**Citation: 2023 FC 396**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, March 22, 2023**

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

**BETWEEN:**

**INNOCENT NJIE NUMVI**

**Applicant**

**and**

**THE MINISTER OF PUBLIC SAFETY AND  
EMERGENCY PREPAREDNESS**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for judicial review of the decision by the Immigration Division (ID), which concluded that the applicant was inadmissible to Canada under paragraph 23(1)(f) of the *Immigration and Refugee Protection Act*, SC 2001, c. 27 [IRPA], because he was a member of the Southern Cameroons National Council [SCNC]. For the following reasons, the application for judicial review is allowed.

I. Background and facts

[2] The applicant is a citizen of Cameroon. He has been a member of the SCNC since 2010 and joined the organization to improve the lives of his English-speaking compatriots in Cameroon.

[3] The applicant left Cameroon for Chile in November 2012 and created a branch of the SCNC there to continue his work with that organization.

[4] The applicant arrived in Canada in December 2019 and claimed refugee protection because of a fear of persecution in Cameroon.

[5] In October 2020, the Canada Border Services Agency sent the applicant and the ID a report under section 44(1) of the IRPA, stating that the applicant was a member of the SCNC, an organization that there were reasonable grounds to believe (i) engages, has engaged or would engage in or instigate, has instigated or would instigate the subversion by force of any government; and (ii) would engage in terrorism. The ID opened an investigation into the applicant, and his refugee protection claim was suspended pending a decision by the ID.

[6] In June 2021, the applicant attended a hearing before the ID and gave testimony on his involvement in the SCNC.

[7] In January 2022, the ID issued a removal order against the applicant, having determined that he was inadmissible to Canada under paragraph 34(1)(f), with reference to paragraphs 34(1)(b) and (c) of the IRPA [Decision].

## II. Analysis

[8] At issue is whether the ID's Decision is reasonable, in other words, whether it is "based on an internally coherent and rational chain of analysis and . . . is justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 85 [Vavilov]).

[9] The applicant acknowledges that he is a member of the SCNC, and this application therefore does not concern the concept of member under paragraph 34(1)(f) of the IRPA. Rather, at issue in this case is whether the ID reasonably concluded (i) that the SCNC engaged in the subversion by force of the government of Cameroon within the meaning of paragraph 34(1)(b) of the IRPA; and (ii) that the SCNC engaged in terrorism within the meaning of paragraph 34(1)(c) of the IRPA.

[10] The applicant submits that the ID did not consider contradictory evidence in its Decision and that the Decision is therefore unreasonable. The respondent maintains that the ID performed a balanced, reasonable analysis and that there is no basis for the Court to intervene on judicial review.

[11] For the following reasons, I find that the ID has not established that there were reasonable grounds to believe that the SCNC engages, has engaged or would engage in or instigates, has instigated or would instigate the subversion by force of a government and/or that the SCNC had engaged in terrorism. To demonstrate reasonable grounds to believe, “[i]n essence, . . . there [must be] an objective basis for the belief which is based on compelling and credible information” (*Mugesera v Canada (Citizenship and Immigration)*, 2005 SCC 40 at para 114). However, in this case, the ID did not consider some contradictory evidence in reaching its conclusion and therefore did not rely on compelling and credible information.

A. *Takeover of Radio Buea in December 1999*

[12] The applicant submits that the ID erred in attributing the takeover of Radio Buea to the SCNC when the evidence on the record is not compelling and attributes that event to both the Southern Cameroon Youth League [SCYL] and the SCNC. The applicant also submits that the objective evidence on the record shows that the SCNC and SCYL were no longer linked as of November 1996 and that it was not reasonable for the ID to conclude that the actions of either organization were attributable to the other given their different *modi operandi* and philosophies.

[13] The respondent submits that, in its Decision, the ID noted that there are sometimes contradictions or inaccuracies concerning which organization had taken over the radio station but that, in his testimony, the applicant had not attempted to attribute the event to the SCYL. The respondent submits that it was reasonable for the ID to attribute the Radio Buea takeover to the SCNC in light of articles from reliable sources, the United Nations Refugee Agency (UNHCR),

Agence France-Presse and the *Journal of Contemporary African Studies*, which attributed the takeover to the SCNC.

[14] As pointed out by the respondent, the ID noted in its Decision that the evidence with regard to the participants in the Radio Buea takeover was “contradictory or imprecise”. The ID stated that, although the documentary evidence suggested that the SCNC was responsible, some jurisprudence attributed the takeover to the SCYL (see *Eyakwe v Canada (Citizenship and Immigration)*, 2011 FC 409 [*Eyakwe*]; *Ntebo v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 403 [*Ntebo*]). Given the mixed documentary evidence, the ID therefore relied on (i) the fact that, in his testimony, the applicant did not attribute the event to the SCYL; and (ii) the sufficiently close link between the SCYL and the SCNC, to conclude that there were reasonable grounds to believe that the SCNC was involved in the takeover of Radio Buea in December 1999.

[15] The objective evidence on the record concerning the ties between the SCYL and the SCNC was not compelling, and it was not reasonable for the ID to rely on it to conclude that there were reasonable grounds to believe that the SCNC was involved in the takeover of Radio Buea. I note the following passages from the documentary evidence presented to the ID:

Dicklitch, Susan, “The Southern Cameroons and minority rights in Cameroon” in *Journal of Contemporary African Studies*, 29: 1, 51–60:

In particular, the Southern Cameroons Youth League (SCYL) and its military wing, the Southern Cameroons Defence Force (SOCADEF) does not support the SCNC approach of promoting dialogue with the Cameroonian government. The SCYL initially operated under the umbrella of the SCNC, but cut its relationship with the SCNC in November

1996 placing itself under the umbrella of the newly established Southern Cameroons Independence Restoration Council (SCIRC) – aimed at creating an independent Southern Cameroons state through armed rebellion, manifest in its motto: ‘the argument of force’ (Konings and Nyamnjoh 1999, 13). The SCYL has been described as being composed of ‘... young people who do not see any future for themselves and who would prefer to die fighting than continue to submit to the fate imposed on Southern Cameroons by *La Republique*’.<sup>28</sup>

Note 28: These include a faction led by Frederick Alobwede Ebong (chairman and president of the self-declared Federal Republic of the Southern Cameroons); another led by Nfor Ngala Nfor (national vice-chairman) and Ette Otun Ayamba (national chairman); Henry Fossung (leader of a faction opposed to the independence declaration by the Ebong faction; Professor Carlson Anyangwe – President of the Republic of Southern Cameroons in exile – Southern Cameroons Peoples Restoration Movement (SOUCPREM), and Ebenezer Akwanga – Chairperson of the Southern Cameroons Youth League (SCYL) (*The Post*, 14 January 2007).

[Emphasis added]

Konings, Piet and Nyamnjoh, Francis B., “Anglophone struggles for a return to the federal state or for secession during political liberalisation 1990–2002” in *Negotiating an Anglophone Identity: A Study of the Politics of Recognition and Representation in Cameroon*, Koninklijke Brill NV, Leiden, Netherlands, 103–5.

The SCYL leadership broke off relations with the SCNC in November 1996 and placed itself under the umbrella of CAM, that in the meantime had changed its name to the Southern Cameroons Restoration Movement (SCARM). It now aimed to create an independent Southern Cameroons state through armed rebellion. . . .

The SCNC chairman, Henry Fossung, who had gone into hiding after the revolt, publicly denied any SCNC involvement, insisting ‘that the SCNC motto “the force of argument and not the argument of force” has remained today as valid as yesterday’.

. . . Dissatisfied with Fossung's leadership, some SCNC leaders staged an internal coup in December 1998 nominating Prince Ndoki Muketi, the then vice-chairman of the SCARM, as the new SCNC chairman. Other SCNC leaders, like Foncha and Muna, however, continued to recognize Fossung as the SCNC chairman. Factionalisation within the SCNC became a frequent source of internal conflict and proved harmful to the Anglophone cause.

It was in these circumstances and in a sense of despair that judge Frederick Alobwede Ebong, an SCNC activist with close ties to the SCYL, took over the Cameroon Radio and Television (CRTV) station in Buea on 30 December 1999, proclaiming the restoration of the independence of the Federal Republic of Southern Cameroons (FRSC).

[Emphasis added]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa, "Cameroon: The Southern Cameroons National Council (SCNC) and the Southern Cameroons Youth League (SCYL); organizational structures; leaders; activities; membership cards; treatment of their members by government authorities," 2 April 2008

Cited in a 14 January 2007 article in the Buea-based newspaper *The Post*, a leader of one of the SCNC factions indicated that there were several SCNC factions and "many other splinter groups" with the same cause. He identified four factions: one led by [Frederick Alobwede] Ebong; one led by Nfor Ngala Nfor and Ayamba [Ette Otun]; one led by [Henry] Fossung; and one led by Ebenezer Akwanga called the Southern Cameroons Youth League (SCYL) (*The Post* 14 Jan. 2007)

. . .

The Southern Cameroons Youth League (SCYL) was formed in 1995 (SCYL n.d.a; Sociologist 25 Feb. 2008). According to the Sociologist at the African Studies Centre in Leiden, the SCYL is a group that split from the SCNC: the SCYL disagreed with the SCNC's approach of promoting

dialogue with the government of Cameroon and believed instead that the use of force was necessary  
(25 Feb. 2008).

[Emphasis added]

[16] These excerpts from the documentary evidence show that the authors generally only agree that the takeover of Radio Buea was attributable to Frederick Alobwede Ebong and that the SCNC was fragmented at the time of the takeover. However, the information is mixed with respect to the cohesion of the various factions of the SCNC and whether they could still be considered to be a single organization, the relationship between the SCNC and the SCYL, and Mr. Ebong's membership in either of those groups.

[17] It was therefore not reasonable for the ID not to consider the contradictory evidence, which reflects a very complex situation and does not support a conclusion that there were reasonable grounds to believe that the SCNC was involved in the Radio Buea takeover. Moreover, this Court relies on its own conclusions in *Eyakwe* and *Ntebo*, which attribute the takeover to the SCYL rather than the SCNC, and which recognize that these are two separate groups.

B. *Current situation*

[18] In its analysis of the current situation, the ID explained that, following the 2016 demonstrations caused by the deployment of Francophone teachers and lawyers in the English-speaking regions of Cameroon, there was an insurrection. The SCNC and the Cameroon Anglophone Civil Society Consortium were banned in 2017, and many prominent leaders and



members of the two organizations were arrested, forcing the remaining leaders to flee to Nigeria and to form the Southern Cameroons Ambazonia Consortium United Front [SCACUF].

[19] According to the ID, the SCACUF is an organization that advocates violence and armed struggle, and formed an alliance with the SCNC known as the Interim Government [IG]. The ID found that the link between the SCNC, the SCACUF and the IG was close enough to attribute the subversion by force committed by the IG to the SCNC as well.

[20] The applicant submits that part of the objective evidence on the record shows that, contrary to the ID's claims, the SCACUF, like the SCNC, advocates dialogue rather than violence.

[21] I find that the objective evidence on the record concerning the SCACUF's practices and philosophy, is also mixed, with some articles describing the SCACUF as a supporter of armed struggle against the Cameroon government and others considering the SCACUF as having adopted more peaceful methods and not advocating armed struggle or violence:

Immigration and Refugee Board of Canada, "Cameroon: The Southern Cameroons National Council (SCNC), including leadership, structure, objectives, activities, requirements and procedures to become a member; relations with authorities; location and contact information; documents issued to members, including letterhead, seal and authorized signatories (2015-June 2018)", 22 June 2018.

Sources report that former SCNC leaders joined the Southern Cameroons Ambazonia Consortium United Front (SCACUF) (Journal du Cameroun 20 Feb. 2018; Journal de Kin 20 Feb. 2018), "which advocates peaceful means to advance independence" (Journal du Cameroun 20 Feb. 2018). According to *The Citizen*, a South

African news publication, exiled members of the SCNC joined the SCACUF (*The Citizen* 25 Oct. 2017). Similarly, Reuters indicates that, according to a Southern Cameroons political activist, “independent separatist coalitions, many of which are run by diaspora Cameroonians,” formed the SCACUF (Reuters 2 Oct. 2017).

Hauchard, Amaury/AFP, “Who are Cameroon’s English-Speaking Separatists?” in *The Citizen*, [online]  
<https://citizen.co.za/news/news-africa/1827263/cameroun-troubles-minorites-armee-nigeria>

. . . the Southern Cameroons Ambazonia Consortium United Front (SCAFUF), headed by Ayuk Tabe, which advocates peaceful means to advance independence. . . . “Negotiations are our best weapon,” said Millan Atam, a SCAFUF leader. But since the crackdown and the roundup of Ayuk Tabe, the peaceful stance is being outflanked by radicals, some of whom advocate taking up arms against “the colonialist occupying forces”.

[22] The evidence on how the SCACUF was formed, its relationship with the SCNC, its goals and the acts attributable to it is mixed, and does not support a conclusion that there are reasonable grounds to believe that the SCNC, which we are dealing with here, was, is or will be involved in any subversion by force that the SCACUF might initiate. The evidence is not compelling, and the ID could not reasonably conclude that there were reasonable grounds to believe that the SCNC works with all these different armed separatist groups towards the common goal of subverting the Cameroon government by force.

[23] Moreover, not only is it unclear that these different groups were formally associated, but the ID also acknowledged that it was unclear to which of those groups the attacks and other acts of subversion by force should be attributed. Given this mixed evidence, one can see that the ID’s

reasonable grounds are based primarily on the testimony of the applicant, who said at his hearing before the panel that he supported all groups fighting for the independence of English-speaking Cameroon:

The panel acknowledges that attacks were not clearly attributed to particular armed groups, which is expected in view of the fragmentation of the secessionist movement. Whereas these groups share the objective of secession for the English-speaking regions of Cameroon, they differ in regard to their operational strategies, financial management and political demands (C-4, p. 88-89). Furthermore, the documentary evidence suggests that fighters' allegiance may not be static as some claim multiple allegiances while others are ready to be associated with any group fighting for the Ambazonian cause (C-30, p. 408-409). The person concern also testified supporting all groups fighting for the independence. [sic]

[24] Given the mixed evidence in this case, the ID did not exercise caution in conflating the acts of the various armed groups in the separatist movement with those of the SCNC, which goes against the warnings of the Federal Court of Appeal in *Kanagendren v Canada (Citizenship and Immigration)*, 2015 FCA 86 at paragraph 30 [*Kanagendren*]:

That said, great caution must be exercised when finding membership in one organization to be a proxy for membership in another. Particularly in the context of nationalist or liberation movements, the mere sharing of goals and coordination of political activities may well not justify this type of analysis.

[25] The ID repeatedly referred to the mixed evidence in its Decision, but failed to quote from and analyze the contradictory evidence that did not support its conclusion that there were reasonable grounds to believe that the SCNC committed acts to try to subvert the Cameroonian government by force. This is contrary to the principles set out in *Cepeda-Gutierrez v Canada (Citizenship and Immigration)*, [1999] 1 FC 53 at paragraph 17 [*Cepeda-Gutierrez*]:

However, the more important the evidence that is not mentioned specifically and analyzed in the agency's reasons, the more willing a court may be to infer from the silence that the agency made an erroneous finding of fact "without regard to the evidence": *Bains v. Canada (Minister of Employment and Immigration)* (1993), 63 F.T.R. 312 (F.C.T.D.) In other words, the agency's burden of explanation increases with the relevance of the evidence in question to the disputed facts. Thus, a blanket statement that the agency has considered all the evidence will not suffice when the evidence omitted from any discussion in the reasons appears squarely to contradict the agency's finding of fact. Moreover, when the agency refers in some detail to evidence supporting its finding, but is silent on evidence pointing to the opposite conclusion, it may be easier to infer that the agency overlooked the contradictory evidence when making its finding of fact.

[26] In this case, the evidence that was not specifically mentioned or analyzed in the ID's reasons, but that was raised by the applicant before this Court, is important and sufficient to demonstrate that the evidence on record as a whole was not compelling and could not support reasonable grounds to believe that the SCNC engages, has engaged or will engage in or instigates, has instigated or will instigate the subversion of a government.

C. *Engaging in terrorism within the meaning of paragraph 34(1)(c)*

[27] The ID's analysis of the SCNC's involvement in terrorism amounts to an assumption that the acts of violence committed by armed separatist groups are all attributable to the IG, since it is apparently the most important organization fighting for the independence of English-speaking people in Cameroon. I note that one of the articles cited by the ID indicates that the separatist movement is divided and that the various organizations and armed forces do not have the same political demands, operational strategies and financial management. Those differences are often the result of internal power struggles and have led to clashes between the various groups

resulting in deaths, particularly in 2018 (*Human Rights Watch*, “These Killings Can Be Stopped: Abuses by Government and Separatist Groups in Cameroon’s Anglophone Regions”, July 2018, at 88–89).

[28] Moreover, although the applicant denied being involved in an organization that commits terrorism and acts of violence against citizens, the ID stated that it gave more weight to the documentary evidence than to the applicant’s testimony in that respect because the applicant left Cameroon in 2012 and his knowledge about the acts committed by armed separatists in the country was therefore not current. This is contrary to all other instances in its Decision where the ID gave more weight to the applicant’s testimony when the documentary evidence was mixed.

[29] For instance, the ID relied on the testimony of the appellant who did not attribute the Radio Buea takeover to the SCYL to conclude that there were reasonable grounds to believe that the event was attributable to the SCNC, despite the mixed documentary evidence. The ID also relied on the testimony of the applicant when he stated that he supported all groups in the separatist movement to conclude that the acts of all those groups, including armed groups and militias, were attributable to the SCNC, even though the objective evidence shows that those different groups have different goals and *modi operandi*. It should be noted that the ID’s reasoning is neither consistent nor intelligible and therefore cannot be considered reasonable according to the test set out in *Vavilov*.

[30] The ID failed to consider numerous pieces of evidence that directly contradict its findings and did not act with the degree of caution and justification advocated by the Federal Court of

Appeal in *Kanagendren* and *Cepeda-Gutierrez* before attributing acts of violence and terrorism to the SCNC despite the mixed evidence on the record showing that the SCNC supports a nonviolent, negotiation-based approach.

III. Conclusion

[31] For the above reasons, the ID made several reviewable errors and I therefore allow this application for judicial review.

**JUDGMENT in IMM-1525-22**

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

1. The application for judicial review is allowed.
2. No costs are awarded.

“Alan S. Diner”

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Justice

Certified true translation  
Johanna Kratz

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

**DOCKET:** IMM-1525-22

**STYLE OF CAUSE:** INNOCENT NJIE NUMVI v MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

**PLACE OF HEARING:** MONTRÉAL, QUEBEC

**DATE OF HEARING:** MARCH 7, 2023

**JUDGMENT AND REASONS:** DINER J.

**DATED:** MARCH 22, 2023

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