Federal Court  Cour fédérale

Date: 20240408

Docket: IMM-4727-23

Citation: 2024 FC 545

Vancouver, British Columbia, April 8, 2024

PRESENT: Madam Justice Sadrehashemi

BETWEEN:

TOOFAN SALAMAT

Applicant

and

MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Toofan Salamat, applied for a study permit to pursue a Master of Engineering at Concordia University. A visa officer at Immigration, Refugees and Citizenship Canada refused his application in a decision dated March 20, 2023. Mr. Salamat challenges this decision on judicial review.

[2] I agree with Mr. Salamat that the Officer's reasoning on his family ties in Iran is unintelligible given the evidence in the record. Mr. Salamat clearly had strong family ties to Iran and it was a factual error for the Officer to say that he had none. I also agree that the Officer's reasoning relating to his study plan and decision to pursue studies in Canada did not grapple with Mr. Salamat's evidence in his personal statement, which explained his decision to not pursue similar programs in Iran.

[3] I do not, however, agree that the Officer's reasoning regarding Mr. Salamat's financial resources was unreasonable. I find the Officer's determination on financial resources to be dispositive given the requirement set out in section 220 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 [*IRPR*] that a study permit shall not be issued unless there are sufficient and available financial resources (*Davoodabadi v Canada (Citizenship and Immigration)*, 2024 FC 85 at paras 15-16). Accordingly, I will be dismissing the application for judicial review.

[4] I note that the Applicant's counsel advised the Court three days prior to the hearing that she had instructions from her client to not appear at the judicial review hearing and that the Applicant would only be relying on the submissions made in the written record already before the Court. This was an unusual step, particularly so close to the scheduled hearing. At the outset of the hearing, I advised the Respondent that if any new issues arose we would have a further discussion about the steps required to ensure Mr. Salamat had an opportunity to respond. No new issues arose at the judicial review hearing.

[5] The requirement that an officer be satisfied that a person applying to study in Canada will not overstay the period authorized for their stay is set out in subsections 11(1) and 20(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 and in paragraph 216(1)(b) of the *IRPR*.

[6] Section 220 of the *IRPR* provides that an Officer "shall not issue a study permit to a foreign national […] unless they have sufficient and available financial resources, without working in Canada, to (a) pay the tuition fees for the course or program of study that they intend to pursue; (b) maintain themselves and any family members who are accompanying them during their proposed period of study; and (c) pay the costs of transporting themselves and the family members […] to and from Canada."

[7] An Officer can look at the source and stability of an applicant's funds to determine whether they have "sufficient and available financial resources" to cover the cost of studying in Canada (*Aghvamiamoli v Canada (Citizenship and Immigration)*, 2023 FC 1613 at para 29). The Officer noted that "limited evidence has been provided when it comes to banking activity to track the provenance of available liquid fund and how [the Applicant] has been able to amass that wealth showed in the statements."

[8] The publicly available instructions for those applying for study permits from Iran ask that applicants provide "[c]opies of bank statements or bank book covering the past 6 months" and "[i]f person or organization outside Canada is funding your studies: detailed explanation letter and proof of financial capacity of that person or organization (employment letter, bank

statements, proof of real estate property, etc" (Immigration Canada, *Study Permit Ankara* Visa Office Instructions, IMM 5816 E (Ottawa: Immigration Canada, May 2016).

[9] Mr. Salamat provided a bank statement for his own account and one for his mother's account, who provided an affidavit committing to financially support her son's studies. These statements, which collectively showed an amount equivalent to approximately $35,000 Canadian dollars did not show six months of banking activity. The Applicant did not provide an explanation of why he could not provide further information about the banking activity in these accounts.

[10] In evaluating the reasonableness of a decision, a reviewing court must consider the decision's institutional context (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] at paras 91 and 103). Visa officers are responsible for considering a high volume of study permit applications. While extensive reasons are not required, an officer's decision must be transparent, justified, and intelligible (*Vavilov* at para 15). There needs to be a "rational chain of analysis" so that a person impacted by the decision can understand the basis for the determination (*Vavilov* at para 103; see also *Patel v Canada (Citizenship and Immigration)*, 2020 FC 77 at para 17; *Samra v Canada (Citizenship and Immigration)*, 2020 FC 157 at para 23; and *Rodriguez Martinez v Canada (Citizenship and Immigration)*, 2020 FC 293 at paras 13-14).

[11] In these circumstances, given the limited nature of the evidence and explanation provided, and the Officer's reasons setting out their concerns with the evidence, I am not

satisfied that the Applicant has demonstrated that there was a significant shortcoming in the Officer's analysis of their financial resources (*Vavilov* at para 100). The application for judicial review is therefore dismissed.

[12] I note that the Applicant cursorily raised two further issues in their written arguments. First, that the Officer's reasons lack justification because of their use of the Chinook 3+ software. The Applicant's argument on this point is hard to follow; without any evidentiary foundation, the Applicant argues that the use of this software means that the Officer reverse engineered their reasons for refusal. I do not see any support in the record for the Applicant's assertion.

[13] Second, the Applicant argues that the Ottawa Case Processing Centre did not have the expertise to evaluate this study-permit and it should have been done by the officers at the visa post in Ankara. The Applicant cites s 11(2) of *IRPR* in support of the assertion that the applicant has the right to have their file processed by a particular visa post. No such subsection exists. Section 11 of *IRPR* states "If an application is not made by electronic means it must be submitted to the address specified by the Minister, including the address specified on the Department's website for that purpose." This certainly does not stand for the proposition that the Applicant is asserting; there is no merit to this submission.

[14] Neither party raised a question for certification and I agree none arises.

JUDGMENT in IMM-4723

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed; and

2. No serious question of general importance is certified.

"Lobat Sadrehashemi"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-4727-23
STYLE OF CAUSE:	TOOFAN SALAMAT v MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	TORONTO, ONTARIO
DATE OF HEARING:	MARCH 28, 2024
JUDGMENT AND REASONS:	SADREHASHEMI J.
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APPEARANCES:

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