Federal Court  Cour fédérale

Date: 20250630

Docket: IMM-13917-24

Citation: 2025 FC 1164

Ottawa, Ontario, June 30, 2025

PRESENT: Mr. Justice McHaffie

BETWEEN:

MAHENDRA RAMSUCHIT

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] Mahendra Ramsuchit applied for a Pre-Removal Risk Assessment [PRRA] after losing his status as a permanent resident owing to a foreign conviction for drug trafficking. A Senior Immigration Officer with Immigration, Refugees and Citizenship Canada found Mr. Ramsuchit had not established that he would face a risk described in section 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] if he returned to Guyana, because he had not

established that the man he feared had a strong interest in him and he had not rebutted the presumption that state authorities in Guyana could protect him. The Officer therefore refused Mr. Ramsuchit's PRRA application.

[2] Mr. Ramsuchit seeks judicial review of that refusal. He argues the Officer made illogical factual findings, ignored country condition evidence regarding state protection, and failed to consider whether he was at risk of persecution under section 96 of the *IRPA*.

[3] Having considered the evidence and the arguments that were put before the Officer, I conclude that Mr. Ramsuchit has not demonstrated that the Officer's refusal of his PRRA application was unreasonable. There were aspects of the Officer's findings regarding the threats Mr. Ramsuchit received that remained unexplained. However, those failings did not affect the Officer's analysis of state protection, which was reasonable and dispositive.

[4] I also find that in the circumstances, the Officer's failure to address section 96 of the *IRPA* does not render the decision unreasonable. Mr. Ramsuchit did not himself allege any nexus to a Convention ground in his PRRA application, and the only nexus he now identifies, namely that of a perceived political opinion, is unsupported on the evidence and was far from being apparent on the record. In any case, any finding of a nexus to a Convention ground would not have affected Mr. Ramsuchit's factual risk profile and thus would not have affected the state protection finding, which would apply equally to exclude a finding that Mr. Ramsuchit was a Convention refugee under section 96.

[5] The application for judicial review must therefore be dismissed.

II. Issue and Standard of Review

[6] As the parties agree, the merits of the Officer's decision are reviewable by this Court on the reasonableness standard: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 16–17, 23–25. The sole issue on this application for judicial review is therefore whether the Officer's decision refusing Mr. Ramsuchit's PRRA application was reasonable.

[7] In reviewing a decision on the reasonableness standard, this Court's role is to assess whether the decision is transparent, intelligible, and justified in light of the factual and legal constraints on the decision maker: *Vavilov* at paras 15, 85–87, 99–101. It is not to undertake its own evaluation of the merits of a case to assess how it would have decided the matter: *Vavilov* at paras 82–83. The Court will therefore not interfere with the factual findings of a decision maker, unless an applicant has established that their findings are based on a fundamental misapprehension of, or failure to account for, evidence that was before them: *Vavilov* at paras 125–126. Nor will it conclude that a decision is unreasonable unless the applicant has established a sufficiently central or significant shortcoming that the decision cannot be said to exhibit the requisite degree of justification, intelligibility, and transparency: *Vavilov* at para 100.

III. Analysis

A. *The PRRA Application*

[8] Mr. Ramsuchit became a permanent resident of Canada in 2008. He and his wife, a Canadian citizen, were convicted in Guyana in 2017 of drug trafficking after being found at the

airport in possession of suitcases containing a large amount of cocaine. Mr. Ramsuchit was sentenced to five years imprisonment. After being released early on parole, Mr. Ramsuchit obtained a visa to return to Canada based on his permanent resident status.

[9] In 2023, Mr. Ramsuchit was found inadmissible to Canada pursuant to paragraph 36(1)(b) of the *IRPA* for having been convicted outside Canada of an offence that, if committed in Canada, would be punishable by a maximum term of imprisonment of at least 10 years: see *Ramsuchit v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 1019. He was offered the opportunity to submit a PRRA application. He did so with the assistance of former counsel.

[10] The allegations of risk Mr. Ramsuchit raised in his PRRA application stem from the circumstances leading to his conviction. He asserted that he was returning from Guyana after a vacation in 2015 when he and his wife were asked at the airport by some individuals to carry luggage for them. They agreed. Mr. Ramsuchit and his wife were arrested at the airport after the luggage turned out to contain large amounts of cocaine.

[11] While initially being held in prison before trial, Mr. Ramsuchit received messages from people working at the prison and from unknown visitors that he should not give any details or identify anyone who spoke with him and his wife at the airport, or he would be killed. Mr. Ramsuchit ultimately learned that a former aide to a government minister had been charged with aiding and abetting in the matter. The aide was alleged to have helped the couple get through the airport with the use of forged documents. A news report from 2017 refers to

Mr. Ramsuchit's conviction and sentencing and states that the former aide was acquitted of the aiding and abetting charge, but still faced a charge of uttering forged documents.

[12] Mr. Ramsuchit continued to receive threats during his sentence and after his release on parole, even though he moved around the country. On one occasion, gun shots were fired at a residence where he was staying, which he took as an effort to threaten and intimidate him. He reported the incidents to the police but was just advised to be careful.

[13] Mr. Ramsuchit's PRRA application raised these facts and described his fear for his life as someone perceived to have knowledge about people involved with the drug trafficking incident, particularly since one of the people charged was a former ministerial aide. He stated that he did not have confidence in Guyanese police, owing to concerns about corruption.

[14] Supporting submissions from Mr. Ramsuchit's former counsel indicated he was seeking protection under section 97 of the *IRPA*. In support of the concern about police corruption, counsel pointed to elements of the National Documentation Package [NDP] for Guyana published by the Immigration and Refugee Board of Canada, as well as a news article reporting on a case in which an informant in a murder case alleged that police leaked his personal information to relatives of the suspects.

B. *The PRRA Decision*

[15] The Officer noted that since Mr. Ramsuchit was found inadmissible to Canada under paragraph 36(1)(b), subparagraph 113(e)(ii) of the *IRPA* applied and he was only eligible for a

restricted PRRA. They summarized the allegations of risk raised in the PRRA application, including the role of the former ministerial aide, the threats received, and the shooting incident, before proceeding to their analysis of the allegations of risk.

[16] In addressing the threats, the Officer found there was "little evidence to establish that these threats were made against [Mr. Ramsuchit] specifically." For example, the Officer noted that it was unknown whether the shooting incident was directed toward the applicant. They also noted that the threats received in jail were likely to prevent the conviction of the ministerial aide, and that he was found not guilty. The Officer found that overall, the evidence filed was lacking in establishing that the former aide and his associates have a strong interest in Mr. Ramsuchit.

[17] The Officer also found that Mr. Ramsuchit had not rebutted the presumption of state protection. The Officer recognized that "there may be police who do not behave appropriately or who do not follow through on the laws in place" but did not believe that this represented the Guyanese police force as a whole. The Officer cited from a 2023 United States Department of State [US DoS] human rights report referring to the issue of police corruption and laws that had been put in place, before concluding that "[w]hile there were instances of police corruption in Guyana, the state took measures to better the situation surrounding police corruption." Overall, the Officer found that Mr. Ramsuchit had not met his burden to provide clear and convincing evidence that Guyana was "unable or unwilling to protect victims of threats."

[18] The Officer therefore concluded that Mr. Ramsuchit had not established, on a balance of probabilities, that he would personally be subjected to a danger of torture, or face a risk to life, or

a risk of cruel and unusual treatment or punishment in Guyana. They therefore rejected the PRRA application.

C. *The PRRA Decision is Reasonable*

(1) The failure to address section 96

[19] The parties agree that subparagraph 113(e)(ii) of the *IRPA*, referred to by the Officer, applies to Mr. Ramsuchit's situation. It reads as follows:

Consideration of application	**Examen de la demande**
113 Consideration of an application for protection shall be as follows:	**113** Il est disposé de la demande comme il suit :
[…]	[…]
(e) in the case of the following applicants, consideration shall be on the basis of sections 96 to 98 and subparagraph (d)(i) or (ii), as the case may be:	e) s'agissant des demandeurs ci-après, sur la base des articles 96 à 98 et, selon le cas, du sous-alinéa d)(i) ou (ii) :
[…]	[…]

(ii) an applicant who is determined to be inadmissible on grounds of serious criminality with respect to a conviction of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, unless they are found to be a person referred to in section F of Article 1 of the Refugee Convention.	(ii) celui qui est interdit de territoire pour grande criminalité pour déclaration de culpabilité à l'extérieur du Canada pour une infraction qui, commise au Canada, constituerait une infraction sous le régime d'une loi fédérale punissable d'un emprisonnement maximal d'au moins dix ans, sauf s'il a été conclu qu'il est visé à la section F de l'article premier de la Convention sur les réfugiés.
[Emphasis added.]	[Je souligne.]

[20] As noted above, Mr. Ramsuchit is inadmissible for serious criminality under paragraph 36(1)(b) of the *IRPA*. There is no allegation that he is a person described in section F of Article 1 of the Refugee Convention, or that the factors set out in subparagraph 113(d), *i.e.*, danger to the public or the security of Canada, are relevant. As a result, subparagraph 113(e)(ii) provides that Mr. Ramsuchit's PRRA application was to be considered on the basis of sections 96 to 98 of the *IRPA*.

[21] It is clear from the PRRA decision, however, that the Officer only considered section 97. They made no reference to section 96 and made no conclusion as to whether Mr. Ramsuchit would face a serious possibility of persecution if he returned to Guyana. Indeed, even the check boxes on the PRRA form referring to section 96 remained unchecked. It appears from the Officer's use of the term "restricted PRRA" that they believed Mr. Ramsuchit was only entitled

to review under section 97, despite the exception to paragraph 113(d) of the *IRPA* set out in subparagraph 113(e)(ii). As the Minister accepts, this was in error: see *Go v Canada (Citizenship and Immigration)*, 2015 FC 635 at paras 10–13.

[22] Mr. Ramsuchit argues that this error is dispositive of his application for judicial review, requiring the Officer's decision to be set aside. I disagree. Mr. Ramsuchit is correct that an officer reviewing a PRRA application has an obligation to consider any Convention grounds that are raised by the facts of a case, even if an applicant has not raised them: *Jama v Canada (Citizenship and Immigration)*, 2014 FC 668 at paras 17–19; *Canada (Attorney General) v Ward*, 1993 CanLII 105 (SCC), [1993] 2 SCR 689 at pp 745–746; *Pastrana Viafara v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1526 at paras 6–7. They will generally also be required to address Convention grounds raised by an applicant, as part of their obligation to meaningfully account for the central issues and concerns raised by the parties: *Vavilov* at para 127; *Vilmond v Canada (Citizenship and Immigration)*, 2008 FC 926 at para 19.

[23] However, a decision cannot be considered unreasonable because a decision maker failed to consider an argument or issue that was not raised and that is inherently untenable. It is thus not sufficient on judicial review to point to a Convention ground that was not considered, if the ground does not arise on the evidence or is not "apparent on the record": *Jama* at para 19; *Fagite v Canada (Citizenship and Immigration)*, 2021 FC 677 at paras 23, 25; *Safi v Canada (Citizenship and Immigration)*, 2016 FC 1347 at para 14; *Gutierrez v Canada (Citizenship and Immigration)*, 2011 FC 1055 at para 35; *Mersini v Canada (Citizenship and Immigration)*, 2004 FC 1088 at paras 8–10. I accept that the Court should not quickly reach the conclusion that

an officer reviewing a PRRA application was not obliged to consider a Convention ground, particularly since the very question of whether there is a nexus to a Convention ground is itself a matter for the decision maker assessing an applicant's risk. However, where an applicant on judicial review raises for the first time a Convention ground that was not raised before and that simply does not arise on the facts, this cannot render the decision unreasonable.

[24] In this case, the only Convention ground relied on by Mr. Ramsuchit, that of political opinion, was neither put before the Officer nor raised by the facts of the case.

[25] In *Ward*, the Supreme Court of Canada described a political opinion as "any opinion on any matter in which the machinery of state, government, and policy may be engaged": *Ward* at p 746, citing G.S. Goodwin-Gill, *The Refugee in International Law* (Oxford: Clarendon Press, 1983) at p 31. While this definition is broad, it still requires the existence or perceived existence of an opinion on a political matter.

[26] Mr. Ramsuchit argues that since the other individual who was charged in connection with the drug trafficking was a former ministerial aide, this raises the issue of government corruption. He contends that since the threats he received related to information he was believed to have that might expose this individual, this can be viewed as constituting a perceived political opinion against such corruption and that the threats can in turn be viewed as persecution based on that perceived political opinion.

[27] However, there is simply no evidence that any of the identified agents of persecution, whether the former ministerial aide, those who made the threats, or anyone else, perceive Mr. Ramsuchit as having an anti-corruption political opinion. The threats as described by Mr. Ramsuchit pertained solely to the demand not to "identify any person who spoke with [him] or [his] spouse at the airport." These threats led him to be fearful because he was "perceived to be knowledgeable as to the operations and individuals who were involved in the scheme." At no point did Mr. Ramsuchit's description of the threats indicate that those making them were concerned about his political opinions, his stance against government corruption, or anything else that might conceivably provide a nexus to a Convention ground. Mr. Ramsuchit's current argument, while creative (to adopt the Minister's description), is untenable on the evidence.

[28] In this regard, the situation is very different from that in *Klinko v Canada (Minister of Citizenship and Immigration)*, 2000 CanLII 17111 (FCA), cited by Mr. Ramsuchit. There, the principal applicant was a signatory to a formal complaint about corruption among government officials in Ukraine, after which he was assaulted and threatened: *Klinko* at paras 4–7. Noting that the Supreme Court of Canada had adopted a broad interpretation of "political opinion," the Federal Court of Appeal found that the government's own anti-corruption stance did not prevent the applicant's opinion from engaging the machinery of state and thus being a political opinion: *Klinko* at paras 21–37. In the present case, to the contrary, there is no evidence that Mr. Ramsuchit was perceived as having any particular opinion at all, let alone one that engaged the machinery of state, government, or policy. It therefore was not unreasonable for the Officer not to assess whether Mr. Ramsuchit was at risk of persecution for reasons of his political opinion. Put another way, there was no need for the Officer to consider theoretical issues that did

not arise on the facts of the case: *Ameeri v Canada (Citizenship and Immigration)*, 2013 FC 373 at paras 15, 17.

[29] In any case, even if there had been potential merit in Mr. Ramsuchit's "political opinion" arguments, I conclude that any failure to consider risk under section 96 could not render the decision as a whole unreasonable because the Officer's conclusions on state protection were determinative of any claim under either section 96 or section 97: *Boussaidi v Canada (Citizenship and Immigration)*, 2024 FC 802 at para 15; *Racz v Canada (Citizenship and Immigration)*, 2012 FC 436 at para 7; see also *Fagite* at paras 23–25 (in the context of an internal flight alternative).

[30] I accept, as does the Minister, that the availability and effectiveness of state protection may depend on the nature of the risk faced by an applicant, such that a proper assessment of that risk is central to a reasonable assessment of state protection: *Cobian Flores v Canada (Citizenship and Immigration)*, 2010 FC 503 at para 32; *Gonzalez Torres v Canada (Citizenship and Immigration)*, 2010 FC 234 at para 24. In the present case, however, the actual risks faced by Mr. Ramsuchit, and the Guyanese state's ability to protect him from those risks, are not affected by the legal characterization of the risks. Even if the risks faced from the agents of persecution are characterized as pertaining to a perceived political opinion, the agents would remain the same, Mr. Ramsuchit's profile would remain the same, and the danger to Mr. Ramsuchit would remain the same. The analysis of the state's ability to protect Mr. Ramsuchit would therefore be unaffected. As discussed below, I conclude that the Officer's state protection analysis was reasonable.

[31] As a result, I conclude that even though the Officer appears to have erred in concluding that Mr. Ramsuchit's claim was only to be assessed under section 97, this error did not render the decision as a whole unreasonable as it cannot possibly have affected the outcome of the PRRA application.

(2) The timing of the threats and the section 97 risk

[32] I reach the same conclusion regarding Mr. Ramsuchit's challenge to the Officer's assessment of the evidence of threats and their consequent finding that he did not face a risk described in section 97. Any error by the Officer on this issue cannot have affected the outcome, given the Officer's assessment of state protection, which assumed that Mr. Ramsuchit faced threats.

[33] On this issue, Mr. Ramsuchit challenges the Officer's finding that there was "little evidence that these threats were made against [Mr. Ramsuchit] specifically." I agree that this statement is unreasonable to the extent that it relates to threats other than the shooting incident. While the evidence regarding the shooting was such that the shots might potentially have been directed at someone else, it is impossible to see how the other threats Mr. Ramsuchit received were anything other than specifically directed against Mr. Ramsuchit.

[34] In this regard, it is worth noting that the Officer made no adverse credibility findings regarding Mr. Ramsuchit and his evidence. Had the Officer been inclined to do so, it would have been incumbent on them to first convene a hearing: *IRPA*, s 113(b); *Immigration and Refugee Protection Regulations*, SOR/2002-227, s 167. Mr. Ramsuchit's evidence was that the threats he

received referred specifically to the drug trafficking incident at the airport; that he received them either personally in prison or by telephone; and that they threatened him with death if he identified anyone or disclosed information. The Officer did not explain how these threats might possibly be characterized as not being made against Mr. Ramsuchit specifically.

[35] Indeed, as Mr. Ramsuchit points out, the Officer's subsequent conclusion that the threats he received in jail were likely to prevent the conviction of the former ministerial aide, who was found not guilty, is inconsistent with the suggestion that the threats were not made against Mr. Ramsuchit specifically. Further, this statement does not reckon with Mr. Ramsuchit's evidence that he continued to receive threats while he was serving his sentence, *i.e.*, after he was convicted and the aide was acquitted.

[36] Again, however, any unreasonableness in the Officer's assessment of whether the threats were directed at Mr. Ramsuchit does not affect the Officer's state protection analysis. On that issue, discussed further below, the Officer found that Mr. Ramsuchit had not shown that Guyana was unable or unwilling "to protect victims of threats." The Officer's analysis of the availability of state protection was thus expressly based on identifying Mr. Ramsuchit as a potential victim of future threats if he should return to Guyana. Given this, I conclude that the state protection issue is dispositive and that it is unaffected by the Officer's conclusions regarding the evidence of the threats.

(3) State protection

[37] As the Officer correctly noted, functioning states are presumed to be capable of protecting their citizens, and clear and convincing evidence of an inability to provide adequate protection is required to rebut this presumption: *Ward* at pp 724–725; *Flores Carrillo v Canada (Minister of Citizenship and Immigration)*, 2008 FCA 94 at paras 24–30, 38. The burden is on an applicant to demonstrate that the state cannot provide adequate protection: *Ward* at pp 724–725; *Flores Carrillo* at paras 17–19, 38. The applicable standard is not one of perfect state protection, but of adequacy at an operational level: *Moya v Canada (Citizenship and Immigration)*, 2016 FC 315 at paras 73–75.

[38] In his PRRA application, Mr. Ramsuchit's submissions on state protection alleged that the police were corrupt and ineffective and referred to his experience of being told to be careful when he reported the incidents to the police. As noted above, on the former point, Mr. Ramsuchit referred to a 2021 US DoS report referring to police corruption and to the article about the informant in a murder case who claimed police leaked his information to relatives of the suspects.

[39] The Officer was not satisfied that Mr. Ramsuchit had met his burden to displace the presumption of state protection, addressing both the issue of corruption and the situation in which Mr. Ramsuchit approached the police. Mr. Ramsuchit argues that the Officer's analysis was unreasonable, noting that the report cited by the Officer referred to police corruption as frequent, and that only 1/8 of complaints against police resulted in prosecutions. He also cites

another item in the NDP referring to police response to crime as “largely ineffective” and to police response times to emergencies as “slow” or “non-existent.”

[40] Having reviewed Mr. Ramsuchit’s submissions on his PRRA application, the evidence in question, the Officer’s reasons and Mr. Ramsuchit’s arguments, I conclude that the Officer’s analysis of state protection is reasonable. The Officer directly addressed the concerns about corruption raised by Mr. Ramsuchit, concluding after review of the most recent information in the NDP that while there was frequent police corruption in Guyana, effective measures were being taken by the state on the issue, and the existence and level of such corruption did not render the police force as a whole inadequate to protect Mr. Ramsuchit should he continue to receive threats. This Court must refrain from reweighing or reassessing the evidence, and will not interfere with the Officer’s finding absent an indication that they fundamentally misapprehended or failed to account for the evidence: *Vavilov* at para 126. I am not satisfied that Mr. Ramsuchit has established such an error. The Officer’s conclusion was open to them on the record and was reached after a reasonable consideration of the evidence.

[41] With respect to Mr. Ramsuchit’s argument that the Officer failed to refer to elements of the NDP that contradicted their conclusion, it is worth noting that Mr. Ramsuchit also did not refer to these aspects of the NDP in his submissions on state protection, focusing his limited submissions on the issue of corruption. While the Officer was obliged to consider the relevant country condition evidence as a whole, they are not required to refer to every aspect of it. I am not satisfied that the passages Mr. Ramsuchit now refers to are of such a nature that not expressly referring to them renders the decision unreasonable. Nor was it unreasonable for the Officer to

conclude that the one instance in which Mr. Ramsuchit obtained ineffective results was not evidence of a lack of adequate state protection.

[42] I therefore conclude that Mr. Ramsuchit has not established that the Officer's conclusion that he could obtain adequate state protection from the threats described was unreasonable. As that conclusion is determinative of Mr. Ramsuchit's claim for protection, the other errors identified by Mr. Ramsuchit are insufficient to render the decision as a whole unreasonable.

IV. Conclusion

[43] The application for judicial review is therefore dismissed. I agree with the parties that no question meeting the requirements for certification arises in the matter.

JUDGMENT IN IMM-13917-24

THIS COURT'S JUDGMENT is that

1. The application for judicial review is dismissed.

"Nicholas McHaffie"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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