

**Date: 20091007**

**Docket: IMM-550-09**

**Citation: 2009 FC 1017**

**Ottawa, Ontario, October 7, 2009**

**PRESENT: THE CHIEF JUSTICE**

**BETWEEN:**

**NINA KLETTCHENKO**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] The decision of the Refugee Protection Division is not extensive. Some of its language is equivocal. However, the applicant, an eighty-six year old Russian grandmother perceived by her neighbours to be of Jewish heritage, has established no reviewable error in the RPD determination that the anti-Semitism she encountered in Moscow “does not rise to the intensity of persecution.” In the circumstances, it will not be necessary to consider the internal flight alternative and state protection issues.

[2] One of the applicant’s principal arguments is that the member did not consider the “forward-looking” aspect of the definition of a Convention refugee.

[3] While it may have been preferable for him to say so more clearly, I read the member's decision as reflecting what was said on behalf of the applicant during the refugee hearing closing submissions (at page 551 of the tribunal record): "... what would happen in the future is very similar to what happened in the past. [The applicant] would continue to be subjected to threats and intimidation and harassment...".

[4] This is not a happy outcome. No one should be required to deal with anti-Semitism in any form of its expression. However, the determination that the applicant was not a Convention refugee nor a person in need of protection was one open to the member on the facts of this case.

[5] If I had any doubts on the issue, I take comfort in the applicant's testimony during her first refugee hearing (at page 513 of the tribunal record):

MEMBER: I need you to tell me that if you were to go back, if you were going back to Russia tomorrow, what would you fear? Take your time, please.

CLAIMANT: I would be afraid and scared of the same as I was afraid of when I left, because of the way I – my difficulties walking. I'm staying at home and tv is only friend and neighbour and assistant, everything, person to talk to. And since we left, I think the situation is even harder. It's even worse than it was before. And since I cannot – I don't work/walk, you know, this is the only information I get is this tv. And there – as long as person is interested in what's going around, then, then you can consider it living, sen – when it stops, then you don't live anymore. And the situation there is even worse than it was before.

MEMBER: How do you know that?

CLAIMANT: Because I, when I was watching tv for three days, when I was watching tv two or three days, there was a questioning and information gathered about how many people in Russia do believe in future. And only 12 percent believe that there is a better future. Eighty-eight (88) percent would not believe that it will be a better day coming.

[6] The member noted that the applicant “was seeking a better place to live and raised the refugee claim as a means of staying in Canada.” He had available to him the applicant’s information in support of her successful visa application. The applicant sold her residence some two weeks prior to entering Canada with her visitor’s visa. His analysis does not invite the Court’s intervention.

[7] Accordingly, this application for judicial review will be dismissed. The Court agrees with the parties that there is no serious question for certification.

[8] The applicant may not be a Convention refugee. However, her daughter, son-in-law and grandchildren are Canadian citizens. She is in her 87<sup>th</sup> year. Hopefully, the applicant will be allowed to remain in Canada in the application of the family unification principles underlying the *Immigration and Refugee Protection Act*.

**JUDGMENT**

**THIS COURT ORDERS AND ADJUDGES that this application for judicial review is dismissed.**

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"Allan Lutfy"  
Chief Justice

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

**DOCKET:** IMM-550-09

**STYLE OF CAUSE:** NINA KLETTCHENKO v. MCI

**PLACE OF HEARING:** Toronto

**DATE OF HEARING:** September 29, 2009

**REASONS FOR JUDGMENT:** LUTFY C.J.

**DATED:** October 7, 2009

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