

Federal Court



Cour fédérale

**Date: 20190925**

**Docket: IMM-6412-18**

**Citation: 2019 FC 1227**

**Ottawa, Ontario, September 25, 2019**

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

**BETWEEN:**

**EDIN GOLIC**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The Applicant seeks judicial review of the decision of the Refugee Protection Division [RPD] of the Immigration and Refugee Board of Canada dated November 13, 2018 [the Decision], which rejected the Applicant's claim for refugee protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] As explained in greater detail below, this application for judicial review is dismissed, because I have found the Decision to be reasonable in its treatment of a determinative issue, the availability of a viable internal flight alternative [IFA], including the required assessment of whether that the Applicant would experience discrimination rising to the level of persecution.

## II. **Background**

[3] The Applicant, Edin Golic, is a 38 year-old Croatian, Muslim male. He lived in Croatia, mostly recently in a town called Velika Gorica, outside the capital Zagreb, before coming to Canada in 2011. Following his arrival in Canada, he claimed refugee protection, asserting fear of persecution in Croatia due to his Muslim background. He allegedly experienced discrimination growing up, including in school, in his community, and in relationships with non-Muslim girls. As adults, he and his brother opened a café bar in Velika Gorica, but the business failed. He attributes this failure to customers' refusal to attend a bar owned and operated by Muslims. In 2017, Mr. Golic married a Christian woman in Canada.

[4] The RPD found that the key issues in this claim were (1) availability of an IFA, (2) state protection, and (3) persecution versus discrimination. After considering Mr. Golic's evidence (the credibility of which was not impugned) and submissions in relation to employment and housing prospects in Zagreb, it concluded that Zagreb was a viable IFA. With respect to state protection, the RPD held there was insufficient evidence to support Mr. Golic's allegations that the police are corrupt and that state protection is inadequate.

[5] Turning to persecution versus discrimination, the RPD noted that that Mr. Golic has been in Canada since 2011 and that it must assess on a forward-looking basis whether he would face persecution if he were to return to Croatia. The RPD reviewed country condition evidence including recent indications that ethnic minorities in Croatia, especially Serbs and Roma, continue to face discrimination. However, it concluded that, while there have been isolated incidents of discrimination against Muslims, it is not as pervasive as that against Serbs and Roma. The RPD also found that the Croatian state has encouraged and demonstrated inter-faith tolerance, acceptance and accommodation.

[6] With respect to Mr. Golic's specific allegations, the RPD found insufficient evidence to indicate that customers' refusal to frequent an establishment run by Muslims was the only reason for failure of the café business. The RPD noted that he is not a practising Muslim, has married a Roman Catholic, and has Catholic friends, although also recognizing Mr. Golic's counsel's submission that the fact he does not practise his religion is not the issue. The RPD then referred to documentary evidence, to the effect that Muslims are generally well integrated and do not differ visually or socially from other citizens of Zagreb. It found that Mr. Golic's "... profile as a non-religious individual who is ethnically Croatian would increase his ability to better integrate into the Zagreb community and reduce the possibility of discrimination."

[7] While acknowledging that Mr. Golic faced discrimination in Croatia in the past, the RPD found that such discrimination does not rise to the level of persecution. It therefore rejected his claims under sections 96 and 97 of IRPA.

III. **Issues and Standard of Review**

[8] The Applicant submits the following issues for the Court's consideration:

A. Did the RPD err in determining that Zagreb was a reasonable IFA for the Applicant?

B. Did the RPD err in its analysis of state protection?

C. Did the RPD err in its consideration of the evidence concerning discrimination?

[9] The parties agree, and I concur, that these issues are reviewable on the standard of reasonableness.

IV. **Analysis**

[10] As canvassed with the Applicant's counsel at the hearing of this application, the RPD appears to have arrived at three determinative findings, each of which would preclude a positive claim for refugee protection. The RPD found that the Applicant had a viable IFA in Zagreb; that he had not proven state protection was inadequate; and that he would not be subject to persecution rising to the level of persecution if he returned to Croatia. The Applicant argues that the fact the RPD undertook these separate analyses, each of which resulted in a determinative finding, detracts from the cogency of the Decision. I disagree with this submission. While the RPD analysed more issues than was strictly necessary to address the Applicant's claim, it is not

possible, in my view, to infer from this structure that the RPD misunderstood the analysis it was required to conduct or that the Decision is not transparent.

[11] In relation to the IFA analysis, I note that the applicable two prong test requires the RPD to be satisfied, on a balance of probabilities that: (a) there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists; and (b) the conditions in that part of the country are such that it would not be unreasonable for the claimant to seek refuge there. I agree with the Respondent's submission that, while assessment whether there was a serious possibility of the Applicant being persecuted in the location of the IFA is a necessary part of the IFA analysis, it was not necessary for the RPD to conduct this analysis separately from, or in addition to, its overall analysis whether the Applicant would face discrimination in Croatia that rose to the level of persecution. Moreover, I note that, in conducting the latter analysis, the RPD expressly found that the Applicant's particular profile would increase his ability to better integrate into the community in Zagreb and reduce the possibility of discrimination. That focus upon Zagreb, the proposed IFA, further demonstrates that the RPD assessed the risk of persecution with a view to the particular circumstances in the IFA.

[12] I therefore turn to the Applicant's arguments that the RPD erred in its IFA analysis, including in the analysis of the risk of persecution. As a starting point, the Applicant submits that the RPD neglected to consider the discrimination against his family in Zagreb that led them to move from there to Velika Gorica when he was a child. He argues that the Decision is unreasonable, because there was no evidence canvassed by the RPD to establish that circumstances in Zagreb had changed since that time.

[13] The RPD noted the Applicant's testimony that he had lived in Zagreb until he was almost 6 years old. However, its analysis of persecution focused upon current country conditions and the possibility of persecution on a forward-looking basis. I do not regard the absence of an analysis of incidents of discrimination when the Applicant was a young child, or the lack of a specific focus on how country conditions had changed since that time, to represent a reviewable error.

[14] More generally, the Applicant argues that the country condition evidence demonstrates pervasive discrimination against minorities in Croatia, including Muslims, and that the RPD's conclusion that the Applicant would not experience discrimination rising to the level of persecution is unreasonable. The Applicant draws the Court's attention to a document entitled "World Report 2018: European Union," published by Human Rights Watch [World Report 2018], which, in relation to Croatia, states that "[m]embers of national minorities, in particular ethnic Serbs and Roma, continued to face discrimination, ethnic intolerance, and hate speech." To similar effect, a 2017/2018 report on Croatia by Amnesty International [2017/2018 Amnesty International Report] states that "[d]iscrimination against ethnic and sexual minorities persisted." The Applicant also relies on a United States Department of State [USDOS] report, dating to 2011, which refers to particular examples of discrimination against the Muslim community, surrounding the distribution of space in city cemeteries, failure of authorities to issue building permits, and obstacles women face in obtaining personal identification cards.

[15] With respect to the availability of housing and employment to members of the Muslim community in the Zagreb, which could be relevant to either of the two prongs of the IFA test, the Applicant relies on a report issued by BalkanInsight in 2011. This report describes an

investigation in which three women made efforts to rent an apartment in Zagreb. One woman was Roma, another Muslim, and the third not a member of any minority group. The third woman received no rejections, while the other two were rejected about 30% of the time by those renting apartments and 40% of the time by those seeking roommates. This report refers to previous surveys showing that discrimination in Croatia is most common in the areas of labour and employment, followed by the judicial system, the police and health care. It also notes recent research revealing that around half of all Croats did not know that discrimination is illegal in Croatia.

[16] In assessing whether the Applicant would face persecution upon a return to Croatia, the RPD relied on country condition evidence including the World Report 2018 and the 2017/2018 Amnesty International Report (i.e. two of the reports cited by the Applicant), as well as a 2017 USDOS report (i.e. a more recent USDOS report than the one cited by the Applicant) and a 2018 report by Freedom House. Consistent with the statement in the World Report 2018 upon which the Applicant relies, the RPD expressly recognized that ethnic minorities in Croatia, especially Serbs and Roma, continue to face discrimination. The RPD also noted evidence in the 2018 Freedom House report that minority rights have improved over the last two decades, although Roma and Serb minorities continue to face discrimination. The RPD found, based on the recent country documentation, that while there have been isolated incidents of discrimination against Muslims, it is not as pervasive as discrimination against Serbs and Roma.

[17] The Applicant takes issue with this finding, arguing that, while the country condition documentation highlights the discrimination against Serbs and Roma, it refers to discrimination

against minorities more broadly, which therefore includes Muslims who comprise only 1.5% of the Croatian population. In my view, this argument asks the Court to reweigh the country condition evidence and interfere with the RPD's Decision in a manner that is not the Court's role in judicial review. The Applicant has not established that the RPD ignored evidence materially inconsistent with its conclusion, and there is no basis to find that the conclusion at which it arrived is outside the range of acceptable outcomes based on the objective evidence.

[18] I reach the same conclusion with respect to the BalkanInsight report, related to the increased difficulty experienced by the Muslim and Roma women in seeking housing in 2011. Again, the RPD expressly referenced this report in its Decision. However, the RPD noted the Applicant's testimony that he would probably be able to obtain an apartment because of his Catholic friends. His counsel submits that the Applicant's subjective opinion as to his prospects in obtaining housing is not determinative, and that the RPD should have been guided by the objective evidence in the BalkanInsight report. I find little merit to this submission. The RPD arrived at its conclusion in reliance on the Applicant's testimony, based on his own particular circumstances, as opposed to one piece of country condition documentation dating to many years before.

[19] With respect to employment prospects in Zagreb, the Respondent notes the Applicant was employed in this city from 2006 to 2007 and again from 2007 to 2010. The RPD considered the Applicant's evidence that he would have difficulty getting a job because he is Muslim but found insufficient evidence that he would not be able to do so. The RPD's findings with respect



to housing and employment prospects are within the range of acceptable outcomes which informs the reasonableness standard.

[20] The Applicant also advances an argument to the effect that the RPD misunderstood how it was required to assess whether discrimination against the Muslim community in Croatia would amount to persecution. The RPD cited portions of the UNHCR Handbook, but the Applicant notes that it omitted a relevant statement: namely, where measures of discrimination are not in themselves of a serious character, they may nevertheless give rise to a reasonable fear of persecution if they produce, in the mind of the person concerned, feelings of apprehension and security as regards his or her future existence.

[21] In my view, the omission of this statement from the Decision does not support a conclusion that the RPD misunderstood the analysis it was required to undertake. The portion of the UNHCR Handbook that the RPD did cite explains the requirement to assess the cumulative measures of discrimination to which a claimant is subject in order to assess whether their effect on the mind of the claimant, or the prejudicial nature of their consequences for the claimant, are such as to constitute persecution. This explanation is consistent with the portion of the UNHCR Handbook upon which the Applicant relies.

[22] Following the country condition analysis explained above, the RPD also reviewed evidence surrounding inter-faith tolerance in Croatia. While noting the Applicant had not based his claim on being a practising Muslim, the RPD found that his "... profile as a non-religious individual who is ethnically Croatian would increase his ability to better integrate into the Zagreb

community and reduce the possibility of discrimination.” The RPD acknowledged that the Applicant had faced discrimination in Croatia but found that it did not rise to the level of persecution. In my assessment, both the material from the UNHCR Handbook cited by the RPD, and its subsequent reasoning in arriving at its determination, demonstrate an understanding of the required analysis.

[23] In conclusion, having considered the Applicant’s arguments, I find no reviewable error in the RPD’s analysis of the availability of a viable IFA, including the required assessment of whether that the Applicant would experience discrimination rising to the level of persecution. As this is a determinative finding for purposes of this application for judicial review, there is no need for the Court to consider the Applicant’s arguments surrounding the RPD’s state protection analysis. I also note that the neither party proposed any question for certification for appeal.

**JUDGMENT IN IMM-6412-18**

**THIS COURT'S JUDGMENT is that** this application for judicial review is dismissed.

No question is certified for appeal.

“Richard F. Southcott”

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Judge

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

**DOCKET:** IMM-6412-18

**STYLE OF CAUSE:** EDIN GOLIC V THE MINISTER OF CITIZENSHIP  
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**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** SEPTEMBER 5, 2019

**JUDGMENT AND REASONS** SOUTHCOTT, J.

**DATED:** SEPTEMBER 25, 2019

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