

Federal Court



Cour fédérale

**Date: 20211015**

**Docket: IMM-5568-20**

**Citation: 2021 FC 1078**

**Ottawa, Ontario, October 15, 2021**

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

**BETWEEN:**

**ZAVEN TEGHLIAN**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] Mr. Teghlian became a permanent resident in Canada on August 25, 2012. He remained in Canada for about 64 days when, for reasons set out below, he returned to and remains in Lebanon. On July 25, 2019, he applied for a travel document to return to Canada. An officer determined that he failed to meet the residency requirement and refused his application. It is undisputed that he fails to meet the residency requirements of a permanent resident set out in the *Immigration and Refugee Protection Act*, SC 2001, c 27. The minimum residency requirement

in a five-year period to maintain permanent residency status is to be in Canada 730 days. In the five-year period applicable to Mr. Teghlian, July 2014 to July 2019, he had 0 days of residency in Canada. In fact, he had not been in Canada except for the brief period immediately after he became a permanent resident in 2012.

[2] The Applicant appealed the officer's decision to the Immigration Appeal Division [IAD]. He submitted that there were sufficient humanitarian and compassionate [H&C] grounds to warrant granting him special relief from the residency requirement. On October 16, 2020, the IAD dismissed his appeal.

[3] For the reasons that follow, I find that the IAD reasonably assessed the evidence before it, reasonably considered the relevant factors, offered a reasonable rationale for the result, and reached a reasonable outcome. This application must be dismissed.

[4] The IAD considered the following factors as being relevant to determine whether an exemption should be granted: (1) the level of non-compliance with the residency obligations, (2) the reason for leaving Canada, (3) the reason for the extended stay outside Canada, (4) ties to Canada, (5) establishment in Canada and abroad, (6) hardship if he loses his permanent residency status, and (7) the best interests of a child directly affected by the decision.

(1) The Level of Non-Compliance

[5] The IAD found that the level of non-compliance was "significant". It could not have been greater. In the relevant five-year period preceding July 25, 2019, the Applicant had not

been present in Canada at all. The IAD found that this non-compliance was “significant and weigh[ed] heavily against him” in the H&C assessment. The IAD Panel held that it “require[d] a high level of H&C considerations to overcome” it. The Applicant took no objection to this characterization of the degree of H&C considerations that would be required to overcome the breach and, in my view, the observation of the IAD was reasonable, warranted, and accurate.

(2) The Reason for Leaving Canada

[6] Shortly after the Applicant’s arrival in Canada, there was a bomb attack near to his father’s place of work in Beirut. His father did not suffer any serious physical injuries, but did suffer serious psychological injuries. Specifically, he developed panic attacks and anxiety for which he required medication and support. The Applicant’s evidence was that his mother could not assist with caring for his father because she had cardiovascular issues and was emotionally fragile. The Applicant’s evidence was also that he had two sisters in Lebanon who tried to assist, but they were married and had minor children to care for. The Applicant’s father’s health improved in 2016.

[7] Given these facts, the IAD found it was “reasonable to expect he would return to Beirut to support his father after hearing of the attack.” Accordingly, it found that “the reasons for his initial departure is [*sic*] reasonable and is a factor weighing in his favour.”

(3) The Reason for the Extended Stay

[8] The Applicant was aware of the residency requirement to maintain his Canadian status and had a ticket to return to Canada within two months. His father's condition required a longer stay.

[9] The Applicant's father's health improved in 2016, but rather than returning to Canada, the Applicant took up "another employment" as a social worker with the Armenian Prelacy of Lebanon in April 2017, where he worked until March 2019. The Applicant testified that he felt he could not leave because his work was unfinished.

[10] The IAD found that the Applicant had failed to demonstrate that his reasons for extending his stay were reasonable. It found that the Applicant had not demonstrated that there was no alternative arrangement available to care for his father's needs. Specifically, it found that the Applicant had failed to demonstrate why his mother or his sisters could not support his father. The IAD also found that the Applicant had failed to establish that his father required constant care, noting the Applicant's busy work schedule, which he maintained while caring for his father. The IAD found it more likely than not that the Applicant remained to continue working in Lebanon.

[11] In the alternative, the IAD found that if there was no reasonable alternative arrangement to provide care for his father in the days following the bomb explosion, the Applicant had not demonstrated why it was reasonable for him to remain after his father's health improved in 2016. The IAD noted that instead of returning at that time, he took up "another employment". The

IAD held that, while the Applicant's work was commendable, deciding to do this work was a choice he made despite being aware of the residency obligation.

[12] The Applicant submits that the IAD fundamentally misapprehended his evidence regarding the extent of his father's medical needs and the inability of his other family members to provide adequate care. Given that the IAD went on to consider an alternative position if it was in error on this account, it need not be considered.

[13] The Applicant further submits that the IAD mischaracterized the Applicant's decision to remain in Lebanon after 2016 as a choice. The Applicant submits that while it was true in "a technical sense" that he chose to stay, the choice was actually a psychological compulsion arising from a sense of moral obligation and a compelling need. The Applicant submits that the IAD trivialized his testimony by characterizing his decision as a mere choice.

[14] At the hearing, the Applicant's counsel suggested that the IAD examined the Applicant's sojourn in Lebanon through an economic rather than a humanitarian lens, most particularly in describing his engagement in social work as "employment" rather than recognizing it as a calling to assist others. As admirable as the work of the Applicant in Lebanon may be, it is irrelevant to the matter before this Court. It was also of no moment before the IAD.

[15] The Applicant argues that the IAD misapprehended his testimony regarding his employment history. The Applicant argues that it is mischaracterization to describe him as beginning "another employment" in 2017. The Applicant submits that the evidence was that he

was continuing in exactly the same job with the same humanitarian relief committee, just through a different employer.

[16] In my opinion, the IAD's findings with regard to the Applicant's failure to return to Canada after his father's recovery are reasonable. Specifically, it was reasonable for the IAD to find that the Applicant chose to remain in Lebanon after his father recovered. While the Applicant may disagree with this conclusion, that does not make it unreasonable. While the Applicant may have felt compelled to stay, that does not entitle him to ignore the consequences of doing so.

[17] While the IAD may have mischaracterized the Applicant's change of employment in 2017, any mischaracterization was minor and did not affect its ultimate conclusion. As noted by the Respondent, regardless of the nature of this event, the outcome was the same: the Applicant remained in Lebanon. I also note that this change occurred in 2017, well after the Applicant's father's health had improved and so has little bearing on considering whether it was reasonable to stay after his father no longer needed care.

[18] In my opinion, the IAD's reasons on the Applicant's failure to return to Canada demonstrate no reviewable error.

#### (4) Ties to Canada

[19] The IAD noted that the Applicant has some family in Canada; namely, one grandparent, two uncles and their wives and children. However, it also observed that the majority of his close

family live in Lebanon. I find its finding that “his ties to Canada are minimal” is reasonable. This factor was found not to weigh in the Applicant’s favour.

(5) Establishment in Canada and Abroad

[20] The IAD reasonably found that the Applicant had no establishment in Canada. It noted that his establishment in Lebanon, in terms of property and savings, were minor; however, it reasonably found that they are significant when compared with his lack of establishment in Canada. This factor weighed against the Applicant.

(6) Hardship

[21] The most significant submission of the Applicant relates to the manner in which the IAD considered his hardship if he were unable to return to Canada.

[22] The IAD found that the Applicant “will experience some economic hardship if he were to remain in Lebanon.” It noted that he was currently unemployed, as his employment with the Armenian Prelacy of Lebanon ended in March 2019. However, it also noted that he had obtained employment on a six-month contract training social workers in January 2020.

[23] The IAD also noted the financial disaster that accompanied the Beirut port blast in August 2020, and the resulting lack of employment and other amenities.

[24] As to his employment opportunities, the IAD held:

Since returning to Lebanon in 2012, he has been employed apart from the period between March 2019 and December 2019 and the last two months. While short-term contract employments are not his preferred options, they are employment opportunities nonetheless and without a concrete job offer in Canada, I am not persuaded his chances of getting employment in Canada if he is allowed to keep his PR status are any higher than his chances of getting employment in Lebanon.

[25] The Applicant argues that the characterization by the IAD of the hardship he faces as “some economic hardship” is a severe and gross understatement of the state of the affairs in Lebanon in circumstances particular to the Applicant. The Applicant notes that the testimony was that his family had been forced to ration their food, live with an hour of electricity a day, and had no access to clean drinking water. The evidence was also that the purchasing power of Lebanon’s currency had decreased by 80%, the economy was in its worst state in a century, and approximately 40-50% of the population was unemployed, with this number expected to increase.

[26] The Applicant submits that after downplaying the hardship he faced, the IAD made several speculative and inaccurate conclusions about his job prospects in Lebanon. The Applicant submits that he did not testify that there were short-term contracts available to him, but rather that he had applied for short-term contracts and had not heard back from the employers.

[27] The Applicant further submits that while he previously had stable employment, due to the aftermath of the Beirut explosion, the economic situation in the country had completely changed and unemployment exceeded 50% at the time of the hearing. The Applicant submits that, as a result, it was unreasonable to infer that he could obtain employment based on his past success.



The Applicant also submits that even if he could obtain employment, due to the decreased purchasing power he would effectively be making 20% of what he previously made.

[28] I am unable to find the reasoning of the IAD on hardship to be unreasonable. I do not find that the IAD mischaracterized the Applicant's evidence with respect to employment opportunities. The evidence was that he had not secured employment in Canada in the two months he resided here, and the Applicant offered no evidence of any employment prospect if he returned. He was able to secure employment in Lebanon, except for two brief periods. He had made applications for contract employment following the end of his last contract (in or about June 2020), but had not yet heard back as of the hearing date in September 2020. While the employment situation was negatively impacted by the Beirut explosion, the finding of the IAD that "there is insufficient persuasive evidence before me to demonstrate that he will be unable to get work in the future" [emphasis added] is reasonably explained on the facts.

[29] Contrary to the Applicant's submissions, the IAD did not downplay the situation of the Applicant. It made reference to the issues regarding electricity, water, and food rationing, and held that this weighed in his favour: "I am persuaded that the appellant has demonstrated there is some economic hardship on him and his family due to the current economic situation in Lebanon – he is currently unemployed, may soon run out of his savings and his family has begun rationing food."

[30] Although hardship weighed in his favour, as noted by the IAD, it is only one factor to consider. It found: "after weighing the totality of the evidence before me, I do not find it

sufficient to outweigh the significant breach of the residency obligation and warrant the granting of special relief.”

[31] What the Applicant is asking the Court to do is to reweigh the evidence and reach a different conclusion. That is not the role of this Court on judicial review.

(7) Best Interests of the Child

[32] This was not a relevant factor as there were no children involved.

Conclusion

[33] The IAD considered all of the relevant factors. It found some that weighed in his favour. It found others that did not. It undertook an analysis and issued reasons that permit one to see how it reached the conclusions that it did. In the end, it weighed the factors and reasonably concluded that those factors that weighed in the Applicant’s favour failed to outweigh those that did not and, in particular, the fact that he has not been in Canada for a single day in the relevant five-year period under review because of a choice he made to remain in Lebanon.

[34] No question was posed for certification.

**JUDGMENT IN IMM-5568-20**

**THIS COURT'S JUDGMENT is that** this application is dismissed and no question is certified.

"Russel W. Zinn"

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Judge

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

**DOCKET:** IMM-5568-20

**STYLE OF CAUSE:** ZAVEN TEGHLIAN v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 8, 2021

**JUDGMENT AND REASONS:** ZINN J.

**DATED:** OCTOBER 15, 2021

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