

Federal Court



Cour fédérale

Date: 20220404

Docket: IMM-5574-20

Citation: 2022 FC 463

Ottawa, Ontario, April 4, 2022

PRESENT: The Honourable Mr. Justice Gleeson

BETWEEN:

OLTA MULLA

Applicant

and

**THE MINISTER OF
CITIZENSHIP AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant, Ms. Olta Mulla, is a citizen of Albania with permanent resident status in Greece. She applied for a temporary resident visa [TRV] to allow her to visit her brother and sister who reside in Canada. The TRV was denied.

[2] The Applicant applies under section 72 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, for judicial review of the visa Officer's October 29, 2020 decision. She argues the decision was unreasonable because the visa Officer [Officer] misapprehended or disregarded evidence and failed to address relevant factors. The Respondent submits the Officer reasonably considered the application and supporting documentation; the decision to deny the application was reasonable.

[3] I have concluded the Officer's decision is unreasonable. As explained in detail below, a visa officer's reasons need not be lengthy nor perfect, but brief reasons must nonetheless reflect the basis and underlying logic supporting the conclusions reached on issues critical to the outcome.

II. Decision under Review

[4] The Officer declined to issue the TRV, not being satisfied the Applicant would leave Canada at the end of her stay. The Officer cited five specific grounds:

- A. Travel history;
- B. Family ties in Canada and her country of residence;
- C. Declared purpose of visit;
- D. Employment situation; and
- E. Personal assets and financial status.

[5] The Officer's reasons for the refusal are contained in the Global Case Management System [GCMS] notes. The GCMS notes are brief:

No verfi. NO derogatory info PA is Albania national. Single. PR of Greece. Unemployed since beginning of pandemic. No personal funds. Shows how she receives social security? 2 siblings: both in Canada. Brother is inviting. Has a business. Funds OK. Brother is a PR. Was a ref claimant. Sister in Canada arrived FC1. Wants to go visit for one month. PA has no employment. Strong ties in Canada. No money. Not well established enough in Greece to motivate return. I have concerns she will go to Canada to access labor market.

III. Issue and Standard of Review

[6] As noted above, the sole issue to be addressed is the reasonableness of the Officer's decision. The parties agree the Officer's assessment of the TRV application is reviewable on a reasonableness standard (*Brefo v Canada (Citizenship and Immigration)*, 2020 FC 815 at para 14; *Shoab v Canada (Citizenship and Immigration)*, 2020 FC 479).

[7] In conducting a reasonableness review, a reviewing court is required to consider both the outcome and the decision maker's reasoning process. A reasonable outcome is not sufficient to insulate a decision where that outcome is not supported by an internally coherent and rational chain of analysis (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 85 [*Vavilov*]).

IV. Analysis

[8] The Officer cites travel history, family ties, and the purpose of the visit, the Applicant's employment circumstances and her financial status as the bases for not being satisfied the Applicant would leave Canada and would not seek to access the Canadian labour market.

[9] Although travel history is identified as one of the five grounds for refusal, the GCMS notes do not address the Applicant's travel history.

[10] The Respondent argues that despite travel history having been cited in the refusal letter, the failure to reference this history in the GCMS notes is of no consequence. It is argued the Applicant's travel history was limited; her application listed four trips to Albania, her country of citizenship, and two trips for vacation purposes. The Respondent submits this limited travel history is insufficient to infer a positive pattern and the Officer was under no obligation to address all of the evidence, citing *Watts v Canada (Citizenship and Immigration)*, 2020 FC 158 [*Watts*].

[11] I take no issue with the principle set out in *Watts*; there is no requirement for an officer to enumerate the details of the evidence relied upon. However, Justice Henry Brown also states in *Watts* that an officer's reasons must nonetheless "meet the tests set out in *Vavilov*" (at para 27). In this case, the reasons fail to satisfy that standard.

[12] The Applicant's travel history and the absence of evidence indicating non-compliance with immigration laws suggests this ground, at worst, would be a neutral factor in assessing the application. Yet, the Officer has relied on travel history to refuse the application without explanation. Having cited travel history as a reason for refusing the application, I am of the view the Officer was required to identify some basis for doing so. In *Watts*, for example, the absence of a travel history to countries with strong migration pull factors was noted.

[13] The Officer's silence in this instance undermines the elements of justification and transparency, both hallmarks of reasonable decisions.

[14] Similarly, in citing strong family ties to Canada and the purpose of the trip as reasons to refuse the application, the GCMS notes ignore what objectively appear to be equally significant family ties to Greece and a reasonable purpose for the trip, to visit family members in Canada. It was, of course, open to the Officer to conclude family ties to Canada were more compelling than those to Greece and to question the purpose of the visit, but again there must be some articulation of the reasoning process leading to these conclusions. *Vavilov* requires more than a bald conclusion, particularly where there is compelling evidence that may justify a different result.

[15] The Applicant further submits and I agree the Officer's treatment of the financial circumstances and employment evidence undermines the reasonableness of the decision. The TRV application indicates the Applicant had funds (\$10,000) to support the visit. The Certified Tribunal Record includes a bank statement, although it is not legible. The GCMS notes simply state the Applicant has "No Funds." This bald statement coupled with the illegible financial statement makes it impossible to determine whether the Officer misapprehended the evidence or the Applicant failed to include objective evidence to support the declared funds. Similarly, the statement that the Applicant is unemployed fails to account for her evidence that her unemployment is a direct result of the pandemic, that prior to the pandemic she had been consistently employed since 2016 on a full time basis in Greece and that she expected to be called back to work post pandemic.

[16] The Respondent acknowledges the Officer's reasons could have been more detailed but also notes the volume of TRV applications is relevant to the institutional context and should be considered when reviewing visa officer decisions (*Watts* at para 22; *Vavilov* at para 91).

[17] An institutional context that includes a high volume of applications will justify reasons that do not include detailed explanations and references to the evidence but instead are limited to markers and conclusions. However, those markers must be sufficient to allow a reviewing court to identify and follow the officer's chain of logic. The institutional considerations identified by the Respondent do not relieve a visa officer of the requirement to satisfy the tests for reasonableness as set out in *Vavilov*.

V. Conclusion

[18] The Application is granted. The parties have not identified a question for certification and none arises.

JUDGMENT IN IMM-5574-20

THIS COURT'S JUDGMENT is that:

1. The Application is granted.
2. The matter is returned for redetermination by a different decision maker.
3. No question is certified.

“Patrick Gleeson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: OLTA MULLA v THE MINISTER OF CITIZENSHIP
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