

Federal Court



Cour fédérale

**Date: 20221118**

**Docket: IMM-1160-22**

**Citation: 2022 FC 1580**

[ENGLISH TRANSLATION]

**Montréal, Quebec, November 18, 2022**

**PRESENT: Mr. Justice Gascon**

**BETWEEN:**

**MOURAD DJEDDI  
MOHAMED ILYES DJEDDI  
MOHAMED YACINE DJEDDI  
AHMED YUCEF DJEDDI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] The principal applicant, Mourad Djeddi, and his minor sons, Mohamed Ilyes Djeddi, Mohamed Yacine Djeddi and Ahmed Youcef Djeddi, are citizens of Algeria. They are seeking

judicial review of a decision of the Refugee Appeal Division [RAD] dated January 27, 2022, [Decision] rejecting their claim for refugee protection. The RAD dismissed the appeal of Mr. Djeddi and his sons against the decision of the Refugee Protection Division [RPD]. The RAD found that they were not Convention refugees or persons in need of protection under sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, because they had two viable internal flight alternatives [IFAs] in Oran or Constantine in Algeria.

[2] Mr. Djeddi and his sons argue that the Decision is unreasonable because it does not consider all the relevant evidence. They are asking the Court to set the Decision aside and refer the matter back to the RAD for a new hearing before a differently constituted panel.

[3] The only issue is whether the RAD's findings on the IFAs are reasonable.

[4] For the following reasons, I will dismiss Mr. Djeddi and his sons' application for judicial review. In light of the RAD's findings, the evidence presented to it and the applicable law, I see no reason to overturn the Decision. Mr. Djeddi and his sons have failed to discharge their burden of proof as to the unreasonableness of the Decision. The RAD's reasons for finding that IFAs exist are comprehensive and have the qualities that make its reasoning logical and coherent in light of the relevant legal and factual constraints. There are therefore no grounds that would warrant the Court's intervention.

## **II. Background**

### **A. *Facts***

[5] Mr. Djeddi and his wife are Algerian citizens from conservative Islamic families who follow the maraboutic tradition, in which women's rights are severely restricted.

[6] Mr. Djeddi's father is the leader of his maraboutic community. Mr. Djeddi has always followed his father's requests to respect maraboutic traditions until he refused the marriage of his 12-year-old daughter.

[7] In February 2019, Mr. Djeddi and his family fled Algeria and made a claim for refugee protection in Canada to escape his family's conditions and avoid the forced marriage of the young girl. Since the family's departure for Canada, Mr. Djeddi's father has threatened him with death for violating the traditions of their community.

[8] In July 2021, the RPD allowed the refugee claim of Mr. Djeddi's wife and their minor daughter but rejected the refugee claim of Mr. Djeddi and their sons. Mr. Djeddi and his sons said they were afraid of persecution by their family if they returned to Algeria. Mr. Djeddi feared being excluded from family life and threatened because he supports his wife and refuses his daughter's marriage. For their part, the underage boys of the Djeddi family were afraid of being abducted to be raised in maraboutic traditions. Mr. Djeddi and his sons therefore appealed the RPD's decision to the RAD.

**B. *The RAD decision***

[9] The RAD started by sending Mr. Djeddi a notice of new determinative issues concerning the prospective risk and the existence of two viable IFAs. Mr. Djeddi thus had the opportunity to

provide further submissions on these issues, and the RAD allowed the new evidence submitted and reviewed it in its Decision.

[10] Following its analysis of the evidence, the RAD found that the Djeddis' appeal had to be dismissed. Although the RAD was of the opinion that the RPD had erred in its assessment of the credibility of Mr. Djeddi and his sons and the existence of their subjective fear, the RAD nonetheless determined that Mr. Djeddi and his sons can reasonably relocate to Oran or Constantine.

[11] The RAD first accepted that Mr. Djeddi faces a serious possibility of persecution by his father and his community because he tarnished his family's honour by refusing the marriage of his 12-year-old daughter and by not subjecting his wife to the conservative principles of the maraboutic community. The RAD also found that if the minor children returned to Algeria alone without their father, they would face a serious possibility of persecution at the hands of the family, given the dishonour caused by Mr. Djeddi. These circumstances explain why the refugee protection claims of Mr. Djeddi and his sons are considered to be one and the same claim. However, the RAD determined that two IFAs are available to them, in either Oran or Constantine.

[12] In its analysis, the RAD assessed the two prongs of the test to determine whether a viable IFA exists. The first prong is to ensure that there is no serious possibility, on a balance of probabilities, that the refugee protection claimant will be persecuted in the proposed IFA. If this is the case, then the second prong should ensure that the conditions prevailing in this region are

such that it would not be unreasonable, upon consideration of all the circumstances, including the refugee protection claimant's personal circumstances, for the claimant to seek refuge there.

[13] For the first prong of the analysis, the RAD recognized the motivation of the agents of persecution—Mr. Djeddi's father and father-in-law, their families and the maraboutic community—to find Mr. Djeddi and his sons. However, the RAD was of the view that the latter had failed to establish that the agents of persecution would have the capacity and means to find them. In the Decision, the RAD reported extensively on its analysis of the documentary evidence filed but found that the agents of persecution were not part of a network of maraboutic communities with the capacity to find Mr. Djeddi in Oran or Constantine. According to the RAD, there was no evidence that maraboutic communities had established themselves in these two cities located in urban areas. On the contrary, according to the RAD, the evidence showed that maraboutic communities were located primarily in rural areas. The RAD also found that the power of these communities to influence police and judicial authorities in Algeria was not apparent from the documentary evidence.

[14] With respect to the second prong of the analysis of a viable IFA, the RAD noted that Mr. Djeddi and his sons did not submit any [TRANSLATION] "actual and concrete" evidence that it would be unreasonable for them to seek refuge in Oran or Constantine.

[15] Therefore, the RAD found that Mr. Djeddi and his sons' refugee protection claim had to be rejected.

**C. *Standard of review***

[16] Mr. Djeddi, his sons, and the Minister of Citizenship and Immigration [Minister] are all of the opinion that the standard of reasonableness applies in the case at hand. I agree with them (*Valencia v Canada (Citizenship and Immigration)*, 2022 FC 386 at para 19; *Adeleye v Canada (Citizenship and Immigration)*, 2022 FC 81 [Adeleye] at para 14; *Ambroise v Canada (Citizenship and Immigration)*, 2021 FC 62 at para 6; *Singh v Canada (Citizenship and Immigration)*, 2020 FC 350 [Singh] at para 17; *Kaisar v Canada (Citizenship and Immigration)*, 2017 FC 789 at para 11).

[17] Moreover, since the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov], the framework starts with a presumption that reasonableness is the applicable standard whenever a court must decide the merits of an application for judicial review of an administrative decision. Two exceptions rebut this presumption and instead require the use of the standard of correctness, namely, where the legislator's intention or the rule of law so requires (*Vavilov* at para 17). That is not the case here.

[18] The standard of reasonableness focuses on the decision made by the administrative decision maker, which includes both the reasoning process and the outcome (*Vavilov* at paras 83, 87). Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on "an internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Vavilov* at para 85). The reviewing court must therefore ask "whether the decision bears the hallmarks of reasonableness — justification, transparency and intelligibility" (*Vavilov* at para 99). The reviewing court must

refrain from “reweighing and reassessing the evidence considered” by the decision maker (*Vavilov* at para 125). The court must exercise restraint and intervene only “where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (*Vavilov* at para 13). It is important to recall that review on a reasonableness standard always finds its starting point in the principle of judicial restraint and must demonstrate a respect for the distinct role conferred on administrative decision makers (*Vavilov* at paras 13, 75). The presumption of reasonableness is now based on “respect for the legislature’s institutional design choice, according to which the authority to make a decision is vested in an administrative decision maker rather than in a court” (*Vavilov* at para 46).

[19] The burden is on the party challenging an administrative decision to show that it is unreasonable. In order for the reviewing court to set aside an administrative decision, it must be satisfied that there are sufficiently serious shortcomings to render the decision unreasonable (*Vavilov* at para 100).

### **III. Analysis**

[20] The only issue is whether the RAD’s findings on the existence of two viable IFAs are reasonable.

#### **A. *Applicable test***

[21] The test to determine the existence of a viable IFA is derived from *Thirunavukkarasu v Canada (Minister of Employment and Immigration)*, [1994] 1 FC 589 (CA), 109 DLR (4th) 682

[*Thirunavukkarasu*] and *Rasaratnam v Canada (Minister of Citizenship and Immigration)*, [1992] 1 FC 706 (CA), 140 NR 138 of the Federal Court of Appeal. Two criteria must be met for an IFA to be reasonable:

- (1) There is no serious possibility, on a balance of probabilities, of the applicants being persecuted in the part of the country where an IFA exists; and
- (2) It would not be unreasonable, in all the circumstances, including those particular to the claimants, for them to seek refuge there.

[22] In *Singh*, the Court noted that “the analysis of an IFA is based on the principle that international protection can only be offered to refugee protection claimants in cases where the country of origin is unable to provide to the person requesting refugee protection adequate protection everywhere within their territory” (*Singh* at para 26). In short, the refugee claimant must be a refugee from a country, not a certain part or region of that country.

[23] If an IFA is established, then the burden is on the applicant to demonstrate that the IFA is inadequate and that it is unreasonable to settle there (*Thirunavukkarasu* at para 10); *Salaudeen v Canada (Citizenship and Immigration)*, 2022 FC 39 at para 26; *Manzoor-Ul-Haq v Canada (Citizenship and Immigration)*, 2020 FC 1077 at para 24; *Feboke v Canada (Citizenship and Immigration)*, 2020 FC 155 at paras 43–44).

**B. First prong**

[24] Mr. Djeddi and his sons claim that the RPD and RAD erred in finding that Mr. Djeddi was not credible. In addition, Mr. Djeddi argues that the risk is the same for himself and his wife and



that, therefore, since Mr. Djeddi's wife's refugee claim was accepted, so should his and his sons' claims. Mr. Djeddi also argues that his testimony was not considered, which makes the Decision unreasonable. Finally, Mr. Djeddi maintains that he would be cut off from the rest of his family in Algeria because he could not reveal his location to them, given the risk of his father finding him if he did.

[25] I do not agree with the arguments put forward by Mr. Djeddi and his sons, and I am of the view that by proceeding as it did, the RAD did not err in its assessment of the first prong of the IFA test.

[26] First, I note that in his submissions, Mr. Djeddi appears to be challenging the reasonableness of the RPD decision, not that of the RAD Decision, which makes most of his arguments inapplicable to this judicial review. It is the RAD Decision that is the subject of this application for judicial review, not the RPD decision. Thus, Mr. Djeddi's allegations about the RAD's assessment of his credibility are groundless because, in the Decision, the RAD does not challenge Mr. Djeddi's credibility or question the motivation of his agents of persecution. On the contrary, the RAD agrees with Mr. Djeddi that his credibility is not at issue and that the agents of persecution have the necessary motivation to find them. The RAD's findings are based on the existence of a viable IFA in Oran or Constantine because the agents of persecution do not have the means to find Mr. Djeddi and his sons in these areas. Rather, it was the capacity of the agents of persecution to find the Djeddies in the IFAs that was at issue, and I am not satisfied that the RAD erred in finding that Mr. Djeddi and his sons failed to establish that their family or maraboutic communities would be able to find them in Oran or Constantine.

[27] In this respect, the RAD properly considered all the documents filed by Mr. Djeddi. It refers to each of them in the Decision. After analysis, the RAD found that there was no evidence to support the presence of zawiyas—brotherhoods of religious communities in Algeria—in Oran or Constantine. According to the RAD, the evidence instead showed that zawiyas are found in rural areas, not in urban areas such as the ones where the two IFAs are located. The RAD also assessed the possibility of maraboutic communities having power over Algerian judicial or political authorities but found that the evidence did not support such a finding. The documents showed only that zawiyas seek to influence politicians, but that the existence of such an influence is not established.

[28] Contrary to Mr. Djeddi's argument, the RAD also examined the [TRANSLATION] "network of maraboutic communities" and the "national organization of the zawiyas" that would enable Mr. Djeddi's family to find them wherever they took refuge in Algeria. However, the RAD found that the evidence did not support Mr. Djeddi's argument that this network would give Mr. Djeddi's father direct power to find them in Oran or Constantine, considering that there is no evidence on the record of the existence of zawiyas in these cities. As the RAD points out, [TRANSLATION] "the mere fact that these are Muslim religious communities is insufficient to establish that they would join the agents of persecution in looking for the appellants and subject them to a serious possibility of persecution." The RAD further determined that the documentary evidence showed that zawiyas endorse a less conservative religious movement than was alleged for the families of Mr. Djeddi and his wife. Thus, there is no indication that zawiyas would help Mr. Djeddi's father to find Mr. Djeddi and his sons for the sole purpose of restoring the family's honour.

[29] The Decision demonstrates in a transparent and intelligible manner that the RAD took directly into account the documentary evidence filed by Mr. Djeddi and his sons, as well as the arguments put forward by them. The reasons refer to both repeatedly, in a comprehensive and in-depth analysis. The RAD considered the documentary evidence as a whole and devoted several paragraphs to it in the Decision. The RAD simply determined that, on a balance of probabilities, the evidence presented was insufficient to establish that Mr. Djeddi and his sons would face a serious possibility of persecution on religious grounds if they returned to Algeria, be it in Oran or Constantine.

[30] In addition, the RAD reasonably found that Mr. Djeddi and his sons would not be forced to live in hiding. The RAD relied on Mr. Djeddi's testimony in which he claimed that he had ceased all contact with his family in Algeria since filing his refugee claim in February 2019. Thus, Mr. Djeddi's argument that he would be forced to cease all contact with his family and not disclose his address is without merit, since he already has no contact with his family. Unlike in *Rivera Benavides v Canada (Citizenship and Immigration)*, 2020 FC 810, cited by Mr. Djeddi in this case, the agents of persecution are the families of Mr. Djeddi and his wife, not groups outside the family. In these circumstances, it was not unreasonable for the RAD to consider that Mr. Djeddi should and could continue to live without contacting his family.

[31] The RAD's findings on the existence of viable IFAs are essentially factual: They are based on ample documentary evidence, and they go to the very heart of the RAD's expertise in matters of immigration and refugee protection. It is well established that the RAD takes advantage of its members' specialized knowledge to assess evidence relating to facts that fall

within its area of expertise. In such circumstances, the standard of reasonableness requires the Court to show great deference to the RAD's findings. It is not the task of a reviewing court to reweigh and reassess the evidence on the record, or to reassess the RAD's findings of fact and substitute its own (*Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55). Rather, it must consider the reasons as a whole, in the context of the record (*Agraira v Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para 53) and simply limit itself to determining whether the conclusions are irrational or arbitrary.

[32] In this case, the RAD specifically considered Mr. Djeddi and his sons' particular situation while analyzing their claims and fears. Based on the evidence before it, the RAD could properly conclude that Mr. Djeddi and his sons had not shown, on a balance of probabilities, that their agents of persecution would have the means to pursue them in Oran or Constantine.

[33] At the hearing, Mr. Djeddi's counsel was unable to identify any evidence that the RAD might have overlooked or excluded from its analysis. In fact, the arguments put forward by Mr. Djeddi and his sons simply express their disagreement with the RAD's assessment of the evidence on the IFAs and invite the Court to prefer their assessment and reading to that of the administrative decision maker. However, this is not the role of the Court on judicial review (*Kanthasamy v Canada (Citizenship and Immigration)*, 2014 FCA 113 at para 99). On judicial review, the Court is not permitted to reweigh the evidence or substitute its own assessment for that of the administrative decision maker.

### **C. *Second prong***

[34] Under the second prong of the test relating to the viability of the proposed IFAs, the RAD had to analyze whether it would be reasonable for Mr. Djeddi and his sons to relocate to Oran or Constantine. This second prong of the test of whether an IFA is viable requires “actual and concrete evidence” of the risk to the claimant’s life and safety if the claimant was to relocate to the IFA (*Ranganathan v Canada (Minister of Citizenship and Immigration)*, [2001] 2 FC 164 (FCA) at para 15; *Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 [*Olusola*] at para 9). The RAD found that, in the circumstances, the evidence showed that Mr. Djeddi and his sons could reasonably settle in Oran or Constantine, given Mr. Djeddi’s knowledge of French, Arabic and Kabyle. In addition, his technical and university training would enable him to find a job, and the country conditions would enable his children to go to school and receive healthcare.

[35] Mr. Djeddi did not put forward any arguments or evidence before the RAD concerning this part of the analysis. In this respect, the Decision is not unreasonable, because it is based on the evidence on the record. Again, the RAD did not fail to consider evidence that would contradict its conclusions (*Vavilov* at para 126; *Singh* at para 38).

[36] The burden of demonstrating that an IFA is unreasonable in a given case, a burden which rests with the claimant, is quite an exacting one (*Elusme v Canada (Citizenship and Immigration)*, 2020 FC 225 at para 25; *Jean Baptiste v Canada (Citizenship and Immigration)*, 2019 FC 1106 at para 21. In fact, it requires nothing less than demonstrating the existence of conditions so unfavourable that they would jeopardize the life and safety of a claimant in travelling or temporarily relocating to a safe area. This evidence was simply not provided by Mr. Djeddi and his sons.

[37] Given the RAD's assessment of the evidence while taking into account the circumstances surrounding the situation of Mr. Djeddi and his sons, the Court has no reason to intervene (*Sadiq v Canada (Citizenship and Immigration)*, 2021 FC 430 at para 49). Once again, the RAD's expertise in immigration requires the Court to show great deference to its findings on this second prong of the test (*Singh* at para 32).

[38] As a result of *Vavilov*, the reasons given by administrative decision makers have taken on greater importance and have become the starting point for the analysis. They are the primary mechanism by which administrative decision makers show that their decisions are reasonable—both to the affected parties and to the reviewing courts (*Vavilov* at para 81). They “explain how and why a decision was made”, demonstrate that “the decision was made in a fair and lawful manner” and shield against “the perception of arbitrariness in the exercise of public power” (*Vavilov* at para 79). In short, it is the reasons that establish the justification for the decision.

[39] In this case, the RAD's findings are reasonable and justified in light of the facts of the case. The Decision refers to the documentary evidence submitted and to Mr. Djeddi's testimony. It provides justifiable, intelligible and transparent reasons that are based on a reasonable assessment of the facts and evidence on the record, which is the basis for a reasonable decision. At most, Mr. Djeddi's arguments would require a reassessment of the evidence, which the Court is not allowed to do when it acts in judicial review under the standard of reasonableness (*Vavilov* at para 125); *Adeleye* at para 25; *Olusola* at para 28). In the end, the errors alleged by Mr. Djeddi and his sons do not cause me to “lose confidence in the outcome reached by the decision maker” (*Vavilov* at para 123).

#### **IV. Conclusion**

[40] For the foregoing reasons, Mr. Djeddi and his sons' application for judicial review is dismissed. I find nothing irrational in the RAD's decision-making process or in its conclusions. I instead find that the RAD's analysis bears the hallmarks of transparency, justifiability and intelligibility, and is not tainted by any reviewable error. Under the standard of reasonableness, it is sufficient that the Decision be based on an internally coherent and rational chain of analysis and be justified in relation to the facts and law that constrain the administrative decision maker. This is clearly the case here.

[41] Neither party proposed a general question for certification. I agree that none arises here.

**JUDGMENT in IMM-1160-22**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed, without costs.
2. No question of general importance is certified.

“Denis Gascon”

---

Judge

Certified true translation  
Johanna Kratz



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

**DOCKET:** IMM-1160-22

**STYLE OF CAUSE:** MOURAD DJEDDI ET AL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** NOVEMBER 14, 2022

**JUDGMENT AND REASONS:** GASCON J.

**DATED:** NOVEMBER 18, 2022

**APPEARANCES:**

Fedor Kyrpichov FOR THE APPLICANTS

Mathieu Laliberté FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Fedor Kyrpichov, counsel FOR THE APPLICANTS  
La Prairie, Quebec

Attorney General of Canada FOR THE RESPONDENT  
Montréal, Quebec