

Federal Court



Cour fédérale

**Date: 20230606**

**Docket: IMM-8900-21**

**Citation: 2023 FC 787**

**Toronto, Ontario, June 6, 2023**

**PRESENT: Justice Andrew D. Little**

**BETWEEN:**

**MEHIE ALI MAAROUF**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The applicant asks the Court to set aside a decision of the Refugee Protection Division (the “RPD”) dated November 9, 2021.

[2] The RPD denied the applicant’s claim for protection under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* (“IRPA”).

[3] The applicant argued that the RPD's decision was unreasonable, applying the principles in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653.

[4] For the following reasons, the application will be allowed.

**I. Facts and Events Leading to this Application**

[5] The Applicant is a stateless Palestinian with residency rights in Lebanon. He is a Sunni Muslim. He based his claim for *IRPA* protection on the following.

[6] Born in 1944 in modern day Israel, the applicant fled to Lebanon and grew up in East Beirut in a refugee camp. The applicant completed part of his post-secondary studies in Eastern Beirut and in Egypt. He returned to Lebanon in approximately 1968 but claims he was discriminated against due to his refugee status and was unable to find employment. From 1968 until his retirement in 2010, the applicant worked in Kuwait. He married and the family includes four children, two of whom now live in Canada.

[7] In 1976, while the applicant was living and working in Kuwait, the applicant's father and brother were murdered by anti-Palestinian militias in the refugee camp in Lebanon.

[8] With the termination of his employment in 2010, the applicant had no right to reside in Kuwait and had to leave Kuwait City. He had no other alternative so he returned to Lebanon.

After 2010, the applicant's wife continued to work in Kuwait City, visiting him in Lebanon approximately every six months.

[9] The applicant lived in an apartment in Lebanon. In 2018, the applicant's home was attacked and, on the way to prayer at his mosque, the applicant was threatened and attacked by one or more individuals identified as members of Hezbollah. The applicant was pushed into the ground and beaten. He tried to report the incident to police, who refused to assist him. As a result of this incident, the applicant never went to pray at the mosque again. He also barricaded the apartment with steel protections on the doors and windows.

[10] In October 2018, two months after this incident, the applicant departed for Canada. At this time, his wife was still in Kuwait.

[11] After the applicant left for Canada, his wife also had to leave Kuwait City and returned to Lebanon to live in the same apartment. As a result of the incident involving the applicant, his wife does not leave the apartment. She lives alone there and people deliver food and other necessities to her.

[12] On arrival in Canada, the applicant claimed protection under the *IRPA* and filed a Basis of Claim. The applicant stated:

... in August 2018 I received multiple serious verbal threatening messages on my life at the hands of members of Hezbollah terrorist party on account of my Palestinian nationality and Muslim Sunni denomination. During that same month, members of the Lebanese resistance brigades, which are affiliated with Hezbollah, threatened to cause bodily injury to me when I was on my way to

perform my prayers at the mosque and they knocked me down. Just prior to these threats, they had attacked my house several times and during one of these attacks they broke the front of my house in an attempt to intimidate me and forced me to leave that area considering that I am a Muslim Sunni and Palestinian. They knocked me down to the floor. I was in so much pain that I almost lost my life. Their intention was to scare me so that I leave my home and they seize possession of it.

The sad part was that when I tried to complain to Lebanese authorities they refused to take my complaint and they refused to offer me any protection. They claim these groups are supported by the government and are very powerful and influential. In fact, as a Palestinian refugee and Muslim Sunni living in this hostile environment, I am an easy and vulnerable target for these people who are backed up by the Lebanese authorities. They got nothing in their hearts except for hatred, discrimination and persecution against the stateless Palestinian refugees considering that these refugees are Muslim Sunnis. In a nutshell, these sectarian groups targeted me because I am Muslim Sunni and a stateless Palestinian refugee without access to any type of state protection.

Had I... remained in Lebanon than I would have faced risk to life at the hands of the aforementioned groups especially that I try to seek the protection of the remedies authorities and no adequate protection if any was available for me. Therefore, I have decided to seek refugee protection in Canada away from all types of discrimination and systematic policies which are ingrained in the Lebanese society at large against the stateless Palestinian refugees.

## **II. The RPD Hearing and Decision**

[13] The RPD heard the applicant's claim at a hearing on November 1, 2021. The applicant testified. In his evidence:

- The applicant described the attack in his Basis of Claim while he was on the way to mosque. He described the verbal exchange with the attacker, who attempted to goad him into cursing associates of the prophet and characters that are revered by some people. He confirmed that the attacker beat him and shoved him to the ground and was cursing him with very nasty words.
- The applicant confirmed that he went to the police at a nearby station, because he wanted to keep the attacker at bay and prevent further threats. The police told him

there was nothing they could do about it and to sort it out himself. The police definitely did not want to interfere or intervene in it at all.

- The applicant stated that there was “no entity that can provide protection for [him] in Lebanon”.
- Given the bad situation, the applicant “had to make a steel fence around [his] lodge, residing place, all over, and the windows, [he] put steel frames on the windows as well”.
- The applicant became suspicious of everyone he would see, worrying that they would attack or insult him. “I am an old man. I can’t live in a situation like this.”
- The applicant stopped going to mosque: “Never. I stopped going there. I stopped going to that mosque.”
- The applicant repeatedly confirmed his view that there was no safe place for him in Lebanon. He believes that it is “possible they will kill me”.
- The applicant advised that the individual “who said [he] was from Hezbollah, he is still keeping an eye on my movements” because “he cursed me and I cursed him”.
- Members of Hezbollah persecute Palestinians because they do not see eye to eye when it comes to politics.
- The applicant advised that would not be able to access public health care in Lebanon.
- When asked why Hezbollah (which is predominantly Shiite Muslim) would have an interest in him, the applicant testified that he didn’t mean they were interested in him personally: “I say anyone, if you are walking down the street and so forth, one of the members of this party will stop you and start and annoy you, and asking you questions and so forth, which makes you uncomfortable”.
- The applicant’s wife had not left the apartment since she arrived in Lebanon. “She lives in literally inside the apartment. She doesn’t move.” The applicant testified that she uses the phone to call people and they bring food to her. He testified that she is not safe there.
- The applicant testified that he has no mobility rights in Lebanon.
- The applicant testified that in Lebanon, he would not be able to practice his religion freely as a Muslim Sunni.

- When asked whether he ever encountered other problems in Lebanon, the applicant testified that he remembered that somebody would use a knife to threaten him and asked for money.
- When asked whether he had experienced problems with the Lebanese Army or police, he testified that as a stateless Palestinian refugee, they would tell him not to queue up in specific places but had to stand in another line.

[14] Counsel for the applicant made comprehensive submissions to the RPD after the evidentiary portion of the hearing. Counsel summarized applicant's claim that he feared persecution at the hands of members of Hezbollah or the resistance brigades on account of his Palestinian nationality or ethnicity and on account of his religion as a Muslim Sunni. Counsel noted the applicant's testimony that he could not return to live in Lebanon in view of the nature and extent of the discriminatory treatment faced by stateless Palestinians in Lebanon. Counsel also mentioned systemic discrimination, including denial of reasonable access to healthcare, education and employment and other basic rights and that such discrimination amounts to the level of persecution. Counsel recognized that not every stateless Palestinian faces a serious possibility of persecution in Lebanon and that each claimant must be assessed individually, based on his circumstances. However, in the present case, "the claimant was exposed to the above-noted persecutory treatment at the hands of members of the Lebanese Resistance Brigades. Additionally, the claimant would face severe restrictions on his rights to practice his religion as a Muslim Sunni, and to earn a livelihood, which is directly linked to his status as a stateless Palestinian refugee, that would likely result in further marginalization of the claimant."

[15] The applicant's counsel also made extensive reference to the country condition evidence related to the circumstances faced by stateless Palestinian refugees in the position of the applicant. The applicant took the position that his life would be at risk at the hands of the

members of the Lebanese Resistance Brigades. Counsel referred to the subjective fears of the applicant, as well as objective documentary evidence indicating widespread and systemic discrimination against Palestinian refugees in Lebanon, which they face “in all aspects of their lives” including denial of citizenship, restrictions on movement, property ownership and no access to social services.

[16] During submissions by the applicant’s counsel, the RPD member interjected three times state that counsel’s submissions were not relevant to the applicant and the problems he would face if he returned to Lebanon.

[17] The RPD rendered an oral decision later the same day as the hearing. The RPD made no findings on credibility. The RPD noted that the applicant retired in 2010 and returned to Lebanon where he owned an apartment, and that his wife remained working in Kuwait for a further nine years.

[18] The RPD noted that the applicant did not work since he returned to Lebanon in 2010, and found that was no evidence of his intention to continue working or his efforts to seek employment in Lebanon. The RPD described the applicant’s confrontation with the Hezbollah supporter in August 2018 as a “scuffle,” and found that the applicant sought police protection, which was “not forthcoming.” Beyond this, the RPD concluded that “nothing else happened to him of note, which would constitute persecution or discrimination rising to that level.”

[19] The RPD found, in particular:

- The applicant was registered with the United Nations Relief and Works Agency (“UNRWA”) and had access to services provided by the UNRWA;
- The applicant was unable to convey what he was afraid of upon his return to Lebanon;
- The applicant’s wife was living in their owned apartment in Sidon for the past three years, and there was no evidence that she faced discrimination rising to the level of persecution in the past three years of living alone; and
- There was no suggestion of persistent harassment of Hezbollah or other agents of harm. The RPD was not convinced that the applicant’s age and profile would be of interest to the alleged agents of harm.

[20] The RPD concluded that there was no evidence that the applicant faced a danger of torture in Lebanon, or that he personally faces a risk or serious harm in Lebanon. Therefore, the RPD found that the applicant was not a person in need of protection and rejected the applicant’s claim.

### **III. Standard of Review**

[21] The standard of review for the RPD’s decision is reasonableness. Reasonableness review is a deferential and disciplined evaluation of whether an administrative decision is transparent, intelligible and justified: *Vavilov*, at paras 12-13 and 15. The starting point is the reasons provided by the decision maker, which are read holistically and contextually, and in conjunction with the record that was before the decision maker. A reasonable decision is based on an internally coherent and rational chain of analysis and is justified in relation to the facts and law



that constrained the decision maker: *Vavilov*, esp. at paras 85, 91-97, 103, 105-106 and 194; *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67, [2019] 4 SCR 900, at paras 2, 28-33, 61.

[22] Not all errors or concerns about a decision will warrant the Court's intervention. To intervene, the reviewing court must be satisfied that there are "sufficiently serious shortcomings" in the decision such that it does not exhibit sufficient justification, intelligibility and transparency. The problem(s) cannot be merely superficial or peripheral, but must be sufficiently central or significant to render the decision unreasonable: *Vavilov*, at para 100; *Canada Post*, at para 33.

[23] The focus of the Court's review is the reasoning process used to reach the decision, not the merits of the applicant's claim for *IRPA* protection.

#### **IV. Analysis**

[24] The applicant provided detailed written submissions to support his position that the RPD (a) misapprehended the evidence of the harm feared by the applicant, (b) ignored and misconstrued key evidence including country condition evidence, and (c) failed to consider the evidence of cumulative discrimination amounting to persecution and explain why it reached its summary conclusion that the circumstances did not amount to persecution.

[25] The applicant emphasized the contents of the applicant's BOC related to the attacks on the applicant and his home owing to his status in Lebanon as a Palestinian refugee and his

religion, that Hezbollah attacked him and was now closely involved in the government in Lebanon, and that the police refused to take any steps to protect him. He argued that the RPD's decision was unreasonable to ignore the evidence that he had taken extreme steps to protect himself after the physical altercation, went into hiding, stopped going to prayers, and fled Lebanon within two months of the attack. The applicant argued that the applicant's wife's condition was one of persecution, as she has had to hide in the apartment for more than three years since her arrival in Lebanon.

[26] As at the RPD hearing, the applicant referred to country condition evidence in both his written submissions and at the hearing in this Court. The RPD's decision referred to none of it.

[27] The applicant listed numerous aspects of the applicant's evidence to support his position that the discrimination that the applicant would face in Lebanon would, taken cumulatively, amount to persecution. The applicant referred to the extensive country evidence of mistreatment and discrimination suffered by Palestinian refugees in Lebanon. Some of this evidence was read at our hearing. The applicant referred to the legal requirement to assess cumulative discrimination (citing *Mete v Canada (Minister of Citizenship and Immigration)*, 2005 FC 840, at paras 5 and 6; *Canada (Citizenship and Immigration) v Munderere*, 2008 FCA 84, at para 41; and *Tetik v Canada (Citizenship and Immigration)*, 2009 FC 1240). The applicant argued that the RPD had an obligation to explain why such acts do not amount to persecution (citing *Bali v Canada (Citizenship and Immigration)*, 2013 FC 414, at para 10 and *Bledy v Canada (Citizenship and Immigration)*, 2011 FC 210, at para 31).

[28] The applicant submitted that there was no indication in the RPD's reasons that it considered whether the incidents and the country evidence, taken together, amounted to persecution and the RPD's decision did not explain why that evidence did not.

[29] In this Court, the respondent's position was dismissive, arguing that no such errors occurred. The respondent noted that the applicant "explicitly told the RPD member that Hezbollah is not interested in him personally. He then contradicted himself and said that one person from Hezbollah is keeping an eye on his movements." The respondent contended that the applicant made no other allegations of being personally targeted but relied on general country information and agreed that not all Palestinians in Lebanon are Convention refugees. According to the respondent, the RPD's statement that the applicant "could not convey what he is afraid of" was wholly reasonable.

[30] The respondent denied that the RPD misconstrued the evidence, noting that the applicant did not testify that he was the target of any other incident in the eight years he lived in Lebanon.

[31] The respondent argued that applicant's evidence was self-contradictory, in that he claimed Hezbollah attacked his house in August 2018 (implying that the agent of persecution knew where to find him and his wife) but left them alone otherwise. According to the respondent, the applicant did not establish a forward-looking risk of persecution and the reasonable conclusion that the agents of harm were not interested in the applicant or for his wife. The respondent emphasized that the applicant relied on one single incident to support his claim for *IRPA* protection.

[32] With respect to cumulative discrimination amounting to persecution, the respondent noted the RPD's finding that in his eight years in Lebanon, there were no other specific incidents. The respondent noted the RPD's statement that the applicant is registered with the UNRWA.

[33] According to the respondent, if the applicant's position were accepted, "all stateless Palestinians in Lebanon would be entitled to Convention refugee status in Canada. Not only is this absurd, it is not consistent with the submission he made at the hearing which is that not all Palestinians in Lebanon are refugees". The respondent argued that the applicant had failed to point to any incidents of discrimination, outside of the single attack, that actually befell him between 2010 and 2018. He was not discriminated against in housing, employment, or travel and he has access to healthcare.

[34] The respondent acknowledged that the RPD's reasons were not provided in great detail, but argued that the RPD was not required to list all possible aspects of discrimination and discuss each one. The respondent relied on this Court's ability to look at the record before the RPD to fill in gaps in the RPD's reasoning (citing *Canada (Citizenship and Immigration) v Mason*, 2021 FCA 156, at para 36; see also *Vavilov*, at para 94; *Safe Food Matters Inc. v Canada (Attorney General)*, 2022 FCA 19, at paras 58 and 60; *Canada (Attorney General) v Kattenburg*, 2021 FCA 86, [2021] 3 FCR 410, at para 16). However, the respondent concurrently argued, paradoxically, that the RPD's reasons were sufficient and there was no "gap" to fill in this case. The respondent maintained, without elaboration, that there was nothing on the applicant's side of

the ledger – nothing discriminatory to consider cumulatively. However, the respondent did not address or respond to each of the applicant’s allegations of discrimination.

[35] Finally, at the hearing in this Court, the respondent argued that the applicant took a “scattershot” approach to arguing his claim, pointing to the many positions taken by the applicant concerning the testimonial and country condition evidence.

[36] The Court’s analysis on a judicial review application does not decide whether the RPD came to the correct decision on the merits. The Court does not consider the matter afresh, or reweigh or reassess the evidence. The questions for the Court concern whether there were flaws in the RPD’s reasoning process, including whether it failed to respect the legal constraints bearing on its decision, or fundamentally misapprehended or ignored material evidence that constrained it.

[37] I agree substantially with the applicant and do not agree with the respondent’s submissions. Based on an aggregation of concerns related to transparency and justification, described below, I conclude that the RPD’s decision must be set aside as unreasonable.

[38] First, the RPD’s reasons ignored or failed to analyze the following evidence related to the applicant’s forward-looking subjective and objective fear of persecution:

- a) Evidence of attacks on the applicant’s home prior to the physical attack on him [no mention by the RPD];
- b) Evidence of the alleged connection of the attacker to Hezbollah [no analysis];

- c) Evidence of the role, nature and influence of Hezbollah in Lebanon and of the brigade allegedly involved [no analysis of the facts or country condition evidence];
- d) Evidence of the applicant's vulnerability to attacks (personally as a then-74-year old and as a Palestinian refugee and Sunni Muslim) [no mention of evidence, passing mention of the applicant's "profile" ];
- e) Evidence of the applicant's responses to the physical attack on him (he fortified his home, stayed in it and effectively went into hiding, stopped going to mosque and left for Canada soon after) [no mention];
- f) Evidence that the applicant's wife arrived in Lebanon and for several years had not left the same apartment in fear [no mention; to the contrary, the RPD apparently found her presence in Lebanon showed that a similarly-situated person could live there safely but did not address the inconsistent fact that she had been in hiding]; and
- g) Any of the country condition evidence relating to the treatment of Palestinian refugees and Sunni Muslims in Lebanon. That evidence indicated systemic and pervasive discrimination against individuals with the same personal characteristics as the applicant.

[39] In my view, the RPD had to assess this factual evidence, and at least some of the material country condition evidence, in order to make a decision that complied with the legal and factual constraints bearing on the decision: *Vavilov*, at paras 105-107, 133; *Canada Post*, para 30.

Although the RPD was not bound to accept this evidence as proof of persecution under section 96, the RPD had to consider it and render a decision on the basis of all or substantially all of it.

[40] Second, the RPD found that the applicant was "not able to convey" what he was afraid of upon his return to Lebanon and the respondent's submissions emphasized that finding.

Respectfully, that conclusion ignored (or failed to address) the evidence in the applicant's BOC and his testimony in response to counsel's questions at the hearing.

[41] At the hearing, the Member's questions did not elicit strong answers from the applicant about what he feared. Reading the transcript, part of that may have been attributable to the multi-layered questions and side comments made by the Member during questioning, which appear to have distracted the applicant from the likely intended focus of the questions. The Member effectively gave up asking questions about what the applicant feared once the Member heard the applicant's testimony that his wife had lived alone in Lebanon. The Member stated that he had not heard enough to find the applicant had a well-founded fear of persecution.

[42] However, the applicant was noticeably more responsive to questions posed by his own counsel. After counsel asked some leading questions (which the Member interjected to stop), the substance of the applicant's answers to proper questions confirmed and expanded on the contents of his Basis of Claim narrative relating to the attack on him and what he feared, and his responses to the attack (e.g., fortifying his apartment, no longer attending mosque).

[43] The RPD's reasons did not mention the applicant's evidence in his BOC or his testimony in response to his counsel's proper questions. That evidence was inconsistent with the RPD's conclusion that the applicant was unable to convey what he was afraid of. The RPD did not state why it apparently rejected that evidence. The RPD made no adverse findings about the applicant's credibility or the reliability of his evidence. The absence of any analysis raises concerns that the RPD overlooked or ignored material evidence, and failed to explain why it did not accept it: *Cepeda-Gutierrez v Canada (Minister of Citizenship and Immigration)*, [1999] 1 F.C. D-53, [1998] FCJ No 1425, at paras 14-17, quoted in *Canada (Attorney General) v Best Buy*

*Canada Ltd*, 2021 FCA 161, at paras 122-123. See also *Vangor v Canada (Citizenship and Immigration)*, 2019 FC 866, at para 9.

[44] Third, reading the RPD's reasons with the transcript of the hearing, it is evident that the RPD relied heavily on the fact that the applicant's wife had lived alone in their apartment in Lebanon for three years prior to the RPD decision. As noted at the hearing in this Court, the RPD implicitly considered that she was a person similarly situated to the applicant and found that there was no evidence that she had faced discrimination rising to the level of persecution during those three years.

[45] However, the RPD did not mention the applicant's evidence that his wife had not left the apartment during that time and had to call other people to arrange the delivery of food and other things to her. At the hearing, the Member did not test or question that evidence, and made no adverse credibility findings to support any doubt about that evidence. If the applicant's wife were a similarly situated person to the applicant, then, on the evidence, the RPD should have considered that they would have to remain holed up in their apartment after his return to Lebanon, for the purposes of a forward-looking assessment of persecution. The RPD did not do so. In my view, the RPD had to come to grips with that evidence before reaching a conclusion adverse to the applicant on his claims for *IRPA* protection.

[46] Fourth, as the respondent recognized in part, the RPD's reasons were at best concise and summary. On key issues raised by the applicant and his evidence, they merely scratched the surface of the evidence and provided no (or gossamer thin) reasoning. In my view, the RPD's



failure to expressly analyze the evidence raises concerns about transparency and proper justification in accordance with the requirements of the Court's cases, particularly given the increased emphasis on responsive and justified reasoning in and since *Vavilov*: see *Vavilov*, at paras 2, 14, 127-128, 133; *Canada Post*, at paras 60-61, 64; *Canada (Attorney General) v Public Service Alliance of Canada*, 2022 FCA 204, at paras 10, 12, 17, 20; *Canada (Justice) v D.V.*, 2022 FCA 181, at para 17; *Safe Food Matters*, at paras 50-57; *Alexion Pharmaceuticals Inc v Canada (Attorney General)*, 2021 FCA 157 at paras 12 and 43; *Canada (Attorney General) v Douglas*, 2021 FCA 89, at para 12; *Bragg Communications Inc v UNIFOR*, 2021 FCA 59, at paras 6 and 9-11; *Kattenburg*, at paras 15-18; *Farrier v Canada (Attorney General)*, 2020 FCA 25, at paras 13-14 and 19. See also *Vancouver International Airport Authority v Public Service Alliance of Canada*, 2010 FCA 158, [2011] 4 FCR 425 at paras 8, 16, 20, 22.

[47] The applicant argued specifically that the RPD failed to assess and explain its conclusion concerning whether the cumulative effect of discriminatory acts would support his position on persecution on a forward-looking basis. The applicant noted that RPD's decision repeatedly stated in a conclusory manner that the circumstances cumulatively do not rise to the level of persecution, without any express assessment of the evidence or explanation.

[48] There is merit in the applicant's submission. It is the RPD's obligation to consider all events that may have an impact on a claimant's claim that he or she has a well founded fear of persecution: *Munderere*, at para 42. See also *Meté*, at paragraph 4, for a description of persecution. Those events must be assessed individually and, to the extent that they reveal discrimination against a claimant, cumulatively. The analysis must include "those events which,

if taken individually, do not amount to persecution, but if taken together, may justify a claim to a well founded fear of persecution”: *Munderere*, at paras 41-42; *Mete*, paras 5-6.

[49] These principles have been reaffirmed recently by this Court: *Abbass v Canada (Citizenship and Immigration)*, 2023 FC 628, at paras 35-42; *Kokeny v Canada (Citizenship and Immigration)*, 2022 FC 993, at paras 15-17; *Agudo v Canada (Citizenship and Immigration)*, 2021 FC 320, at para 29; *Santha v Canada (Citizenship and Immigration)*, 2021 FC 1353, at para 53.

[50] In addition, as the applicant submitted, longstanding decisions of this Court require the RPD to provide an explanation. The Court has held that the “Board is expected to assess the cumulative effects of discriminatory incidents and explain why they do not amount to persecution”: *Gregor v Canada (Citizenship and Immigration)*, 2011 FC 1068, at para 16. Similarly, in *Bledy*, the Court stated that the Board “failed to provide any analysis of the cumulative effects of the discriminatory incidents and explain why these incidents, in the aggregate, did not amount to persecution”: *Bledy*, at para 31. See also *Tetik*, at paras 26-29.

[51] The requirement for explanation was recently confirmed in *Abbass*, at para 50; *Kokeny v Canada (Citizenship and Immigration)*, 2022 FC 993, at paras 16-17; and in *Ban v Canada (Citizenship and Immigration)*, 2018 FC 987, at paras 28-29; *Conka v Canada (Citizenship and Immigration)*, 2018 FC 532, at para 27; and *Eros v Canada (Citizenship and Immigration)*, 2017 FC 1094, at para 31.

[52] I agree with the applicant that even if the RPD did assess the cumulative effect of events, the RPD did not adequately explain its reasons. Its reasons on this issue were conclusory. See also *Ruszo v Canada (Citizenship and Immigration)*, 2019 FC 397 at para 26; *Ban*, at para 28.

[53] The respondent submitted that the RPD mentioned some of the evidence that the applicant characterized as discriminatory (e.g., access to health care, which the applicant received through the UN; he was retired and therefore was not discriminated against in finding work). The respondent argued that these references could be read as summarily assessing some aspects of the applicant's claims for protection. It is a fair point. However, when viewed with the additional evidence and the country condition evidence, in my view the RPD was obliged to do more than it did to justify its negative decision in a transparent manner in accordance with the case law. Indeed, the RPD's failure to consider certain key aspects of the applicant's evidence, as already discussed, also gives me pause to reflect on whether the RPD in fact assessed all the evidence in accordance with the principles in *Mete* and *Munderere*. On the application of an exception to *Cepeda-Gutierrez* principles for country condition evidence, see *Koppalapillai v Canada (Citizenship and Immigration)*, 2018 FC 235, at paras 21-25; *Agudo*, at paras 42-43. The reasons in this case do not enable the Court to understand why the RPD made the decision it did.

[54] The RPD relied on and agreed with the applicant's stipulation (which the RPD treated as an admission) that not all stateless Palestinians are Convention refugees. But that "admission" does not show that this applicant was not a Convention refugee. His claim had to be assessed individually, as the applicant's counsel submitted at the RPD hearing:

While I do acknowledge that the discriminatory treatment faced by  
Palestinians in Lebanon, as set out in the documentation on

country condition, I am not of the view that every stateless Palestinian faces a serious possibility of persecution in Lebanon. Each claimant must be assessed individually based on his circumstances. In the present case, ... the Claimant was exposed to the above-noted persecutory treatment at the hands of members of the Lebanese resistance brigades. Additionally, the Claimant would face severe restrictions on his rights to practice his religion as a Muslim Sunni, and earn a livelihood, which is directly linked to his status as a stateless Palestinian refugee, that would likely result in further marginalization of the Claimant.

[55] The RPD may agree or disagree with the applicant's position and may or may not conclude he should be a protected person in Canada, but it had to assess the evidence of subjective and objective fear that was provided by this applicant.

[56] Fifth, the respondent's submissions do not support the reasonableness of the decision. In particular, many of the respondent's positions were arguments about the merits of the applicant's claim for protection, or attempts to backfill or supplement the RPD's reasons with new or additional purported arguments and reasons why the applicant was not deserving of *IRPA* protection. None of those arguments gets any traction on a judicial review application.

[57] I am aware from the hearing transcript that the RPD stated that it had reviewed the applicant's claim documents and rendered its decision the same day as hearing the evidence. The hearing transcript also suggests that the RPD member had considerable familiarity with Lebanon. These points are relevant, but do not salvage the RPD's decision in this case. Any such knowledge and understanding of the region, and the immediacy of a decision after the testimony and submissions, do not implicitly justify a negative *IRPA* protection decision that otherwise fails to comply with the standard of reasonableness described in *Vavilov*. An RPD decision of

this nature, which requires the decision maker to provide reasons, has to provide transparent reasoning to show why a claim for *IRPA* protection was rejected. A decision without responsive and substantive reasons may appear arbitrary; the applicant cannot know why his claim for protection was rejected and this Court's oversight role on judicial review may be compromised: see *Vavilov*, at para 127; *Mason*, at para 34; *Vancouver International Airport Authority*, at paras 13-14, 16(c), 16(d) and 24. In this case, given the absence of analysis, the existence of unmentioned contrary evidence and the absence of any adverse credibility findings, we do not know with sufficient confidence how the RPD reached its negative conclusion.

[58] Applying the applicable principles, I find no basis in law or in the record to fill in the gaps in the RPD's reasoning: *Vavilov*, at paras 91-96, 127-128, 133; *Zeifmans LLP v Canada*, 2022 FCA 160, at paras 9-11; see also my reasons in *Zibadel v Canada (Minister of Citizenship and Immigration)*, 2023 FC 285, at paras 45-47.

[59] Finally, the respondent's characterization of the applicant's position as "scattershot", itself misses the mark. Even if some submissions on forward-looking risks and discrimination against Palestinian refugees in Lebanon may not have related directly to the applicant's circumstances, counsel's submissions to the RPD could also be described as thorough. Of course, we do not know what the RPD thought of the specific submissions made to it because the RPD did not engage adequately with the arguments and evidence.

[60] Taking all of these considerations into account, I conclude that the RPD did not make a reasonable decision. The RPD's decision was not transparent and justified and did not meet the requirements in *Vavilov*. It must be set aside.

[61] In reaching this determination, I make no comment about whether or not the RPD came to the correct conclusion on the applicant's claim for *IRPA* protection. That will be for a different RPD member on redetermination.

**V. Conclusion**

[62] The application is allowed.

[63] The RPD's decision will be set aside and the applicant's claims under *IRPA* sections 96 and subsection 97(1) will be remitted for redetermination by another member of the RPD.

[64] Neither party proposed a question to certify for appeal and none will be stated.

**JUDGMENT in IMM-8900-21**

**THIS COURT’S JUDGMENT is that:**

1. The application is allowed. The RPD’s decision dated November 9, 2021, is set aside.
2. The applicant’s claims for protection under sections 96 and subsection 97(1) of the *Immigration and Refugee Protection Act* are remitted for redetermination by another member of the Refugee Protection Division.
3. No question is certified for appeal under paragraph 74(d) of the *Immigration and Refugee Protection Act*.

“Andrew D. Little”  
\_\_\_\_\_  
Judge

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

**DOCKET:** IMM-8900-21

**STYLE OF CAUSE:** MEHIE ALI MAAROUF v MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** MARCH 8, 2023

**REASONS FOR JUDGMENT  
AND JUDGMENT:** A.D. LITTLE J.

**DATED:** JUNE 6, 2023

**APPEARANCES:**

Ameena Sulton FOR THE APPLICANT

David Knapp FOR THE RESPONDENT

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