

Federal Court



Cour fédérale

**Date: 20240702**

**Docket: IMM-8456-23**

**Citation: 2024 FC 1030**

**Ottawa, Ontario, July 2, 2024**

**PRESENT: The Honourable Madam Justice Ngo**

**BETWEEN:**

**ELIEL SHUNOM YAWA**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

I. Context

[1] The Applicant seeks judicial review of a decision refusing his application for Temporary Resident Permit [TRP] on June 21, 2023 [Decision].

[2] For the reasons that follow, this application for judicial review is dismissed. The decision-maker did not misapprehend the requirements of a TRP pursuant to subsection 24(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

## II. Facts

[3] The Applicant, Eliel Shunom Yawa [Applicant], entered Canada on August 21, 2012, on a Temporary Resident Visa, and briefly returned to Nigeria. The Applicant re-entered Canada on August 28, 2013 on a study permit. Additional study permits were issued to him throughout the years, with the last one expiring on November 30, 2023.

[4] The Applicant graduated from Algonquin College. In January 2021, he applied for a Post-Graduation Work Permit [PGWP]. He completed his application without legal representation. In a letter dated February 12, 2021, the Applicant's application for a PGWP was refused. Although the officer considered transcripts proving the Applicant's enrollment on a part-time basis for some semesters, the refusal letter mentions that the Applicant had not satisfied the requirements provided under the *IRPA*. The Applicant did not meet the full-time student status requirement and was not eligible for a work permit under the PGWP category.

[5] In November 2022, the Applicant submitted an application for a TRP, with legal representation [TRP Application]. In support of the TRP Application, the Applicant's lawyer sent a letter dated November 17, 2022, requesting a TRP to overcome the Applicant's ineligibility for the PGWP. The Applicant requested issuance of a three-year PGWP and a TRP with re-entry authorizing him to re-enter and exit Canada during the validity of his permits.

[6] In his TRP Application, the Applicant included a Statutory Declaration and supporting documentation. The Applicant explained that he wished to work in Canada. However, because he had applied on his own and without legal counsel, he was unaware of the required supporting documents for a PGWP. The Applicant explained the extenuating circumstances leading to his part-time status was accommodated by Algonquin College. He submitted that the “unfortunate circumstances due to struggles with his mental health during his studies;” strongly supported “the kind of special situation envisioned by the program (sic) objectives, with regards to issuing temporary resident permits (sic).”

[7] In the Decision dated June 21, 2023, an Officer of Immigration, Refugees and Citizenship Canada [Officer] denied the TRP Application. The refusal letter dated June 21, 2023, and the Officer’s Global Case Management System [GCMS] notes, form the Decision subject to this judicial review.

### III. Legal Issues and Standard of Review

[8] The issue in this case is whether the Officer’s Decision refusing the TRP Application was unreasonable.

[9] The parties agree that the applicable standard of review is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 10, 25 [Vavilov]). I agree that this is the applicable standard of review.

[10] To avoid intervention on judicial review, the decision must bear the hallmarks of reasonableness – justification, transparency and intelligibility (*Vavilov* at para 99). A reasonable decision will always depend on the constraints imposed by the legal and factual context of the particular decision under review (*Vavilov* at para 90). A decision may be unreasonable if the decision maker misapprehended the evidence before it (*Vavilov* at paras 125-126). The party challenging the decision bears the onus of demonstrating that the decision is unreasonable (*Vavilov* at para 100).

#### IV. Applicable Statutory Provision

[11] Subsection 24(1) of the *IRPA* outlines the requirements for issuing a TRP. An Officer is required to determine if (a) the applicant is inadmissible under the *IRPA* or (b) the applicant is not in compliance with a requirement provided in the *IRPA*:

<b>Temporary resident permit</b>	<b>Permis de séjour temporaire</b>
<p><b>24 (1)</b> <u>A foreign national who, in the opinion of an officer, is inadmissible or does not meet the requirements of this Act becomes a temporary resident if an officer is of the opinion that it is justified in the circumstances and issues a temporary resident permit, which may be cancelled at any time.</u></p> <p>(Emphasis added)</p>	<p><b>24 (1)</b> Devient résident temporaire l'étranger, dont l'agent estime qu'il est interdit de territoire <u>ou</u> ne se conforme pas à la présente loi, à qui il délivre, s'il estime que les circonstances le justifient, un permis de séjour temporaire — titre révoquant en tout temps.</p>

#### V. Analysis

[12] The Applicant submits that the Officer misapplied section 24 of the *IRPA* by focusing on only one element of the statutory requirements. In particular, the Applicant contends that the

Officer erroneously focused on whether the Applicant had been inadmissible under the *IRPA* but failed to consider whether the Applicant does not meet the requirements of the *IRPA*. The Applicant also submits that the Officer failed to demonstrate how they had applied the “compelling reasons” test.

[13] The Respondent submits that the Officer reasonably applied section 24 of the *IRPA* by having assessed all the elements of the statutory requirements. The GCMS notes demonstrate the Officer’s assessment had considered the Applicant’s particular circumstances to conclude that, the Applicant was not inadmissible and the Applicant still met the requirements of the *IRPA*. The Respondent submits that the Applicant seemed to confuse meeting the requirements under the *IRPA* with the requirements for eligibility for a PGWP.

[14] Subsection 24(1) of the *IRPA* requires the Officer to consider whether the Applicant is inadmissible or does not meet the requirements of this Act.

[15] The parties agree that the Officer sufficiently grappled with the first element on “inadmissibility,” but they do not agree on whether the Officer sufficiently grappled with the second element on “compliance” (i.e. “meet the requirements of this Act”). The Applicant’s position is that the Officer erred by having considered only the first element (i.e. inadmissibility). In the GCMS notes, the Applicant points to numerous references of the terms “not inadmissible” and the Applicant contends that those references suggest that the Officer was not alive to the second element of subsection 24(1) of the *IRPA* on “compliance.”

[16] In reading the GCMS notes, I find the Officer was alive to the second element of subsection 24(1) of the *IRPA*. The Officer considered the Applicant's immigration history and repeatedly referred to the fact that the Applicant had "maintained status." Moreover, the Applicant's submissions in support of the TRP Application confirmed that the "Applicant had not displayed a pattern of non-compliance with immigration rules." Given this, I cannot agree with the Applicant's contention that the Officer only grappled with the "inadmissibility" component provided under subsection 24(1) of the *IRPA*.

[17] This Court ought to afford deference on matters involving the interpretation of the administrative decision maker's home statute (*Vavilov* at para 42).

[18] I find that the Officer's reasons clearly demonstrate that the Decision considered both of the statutory elements, by firstly concluding, that the Applicant was not inadmissible under the *IRPA*; and secondly that the Applicant meets the requirements of the *IRPA*. In applying the standard of reasonableness, this Court determines that the Officer's application of subsection 24(1) of the *IRPA* is reasonable.

[19] The Applicant further submits that the Officer failed to engage in a "compelling reasons" analysis (*Mousa v Canada (Immigration, Refugees and Citizenship)*, 2016 FC 1358 at para 12). Both parties refer to *Farhat v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1275 at paragraph 22, in which the Court summarized the objective of section 24 of the *IRPA* is to soften the sometimes harsh consequences of the application of the *IRPA* where there may be "compelling reasons."

[20] Regretfully, I cannot agree that the Officer failed to engage in an analysis of or failed to grapple with the Applicant's "compelling reasons" as described in subsection 24(1) of the *IRPA*.

[21] The GCMS notes clarify that the Officer considered whether the Applicant's circumstances amounting to his ineligibility to the PGWP were "compelling reasons." The Officer found that "issuing TRP to overcome an ineligibility for a PGWP is not considered unique, compelling or exceptional circumstance (sic)." Although the reasons are brief, I find them sufficient to demonstrate the Officer had considered whether the Applicant's request for a TRP to overcome his ineligibility amounted to "exceptional and compelling circumstances."

[22] The Applicant also relies on Justice Régimbald's decision in *Munzhurov v Canada (Citizenship and Immigration)*, 2023 FC 657 [*Munzhorov*] to suggest that the facts are similar to this case. In both cases, the applicants had their PGWP application refused because their status had not been that of full-time students in Canada. Both applicants' transcripts were considered and in both cases, they were part-time students for more than one semester. Both applicants submitted a TRP application to overcome their ineligibility to the PGWP.

[23] However, the Decision subject to this judicial review differs from *Munzhorov*. In *Munzhorov*, Justice Régimbald's granted the application for judicial review, because the officer relied on boilerplate statements which did not allow a reviewing court to assess whether the officer properly applied the law to the submissions in the context of a TRP application (*Munzhorov* at para 22). The facts are different in these circumstances at bar. The Officer in this case did not rely on boilerplate statements.

[24] While the Officer in this case did not issue a TRP to allow the Applicant to overcome his ineligibility to the PGWP like in *Munzhorov*, I do not agree with the Applicant that the Officer ignored evidence about the circumstances leading to a refusal of the PGWP application. The GCMS notes clearly demonstrate the PGWP refusal evidence was considered. Unlike in *Munzhorov*, the Officer provided reasons allowing this Court to connect the dots to understand the Officer's reasoning process.

## VI. Conclusion

[25] In reading the Decision holistically and contextually, this Court finds that the Decision was not silent on critical assessments required under subsection 24(1) of the *IRPA*. I find no flaws or shortcomings affecting the reasonableness of the Decision or requiring this Court to overturn the Decision. As such, I determine that the Decision bears the hallmarks of reasonableness — justification, transparency and intelligibility — and is justified in relation to the relevant factual and legal constraints that bear on the decision (*Vavilov* at para 99). Therefore, I must dismiss this application for judicial review.

[26] The parties confirmed at the hearing that there are no questions to certify, and I agree that none arise in the circumstances of this case.



**JUDGMENT in IMM-8456-23**

**THIS COURT'S JUDGMENT is that**

1. The application for judicial review is dismissed.
2. There are no questions for certification.

"Phuong T.V. Ngo"

---

Judge

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

**DOCKET:** IMM-8456-23

**STYLE OF CAUSE:** ELIEL SHUNOM YAWA v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** OTTAWA (ONTARIO)

**DATE OF HEARING:** MAY 28, 2024

**JUDGMENT AND RESONS:** NGO J.

**DATED:** JULY 2, 2024

**APPEARANCES:**

Jacqueline J. Bonisteel FOR THE APPLICANT

Alexandre Petterson FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Corporate Immigration Law Firm FOR THE APPLICANT  
Barristers and Solicitors  
Ottawa, Ontario

Attorney General of Canada FOR THE RESPONDENT  
Ottawa (Ontario)