

Federal Court



Cour fédérale

**Date: 20140120**

**Docket: IMM-11979-12**

**Citation: 2014 FC 54**

**Ottawa, Ontario, January 20, 2014**

**PRESENT: The Honourable Madam Justice Simpson**

**BETWEEN:**

**ZOLTAN ADAM  
KAROLINA GONCZI  
EVA ADAM  
KAROLINA ADAM  
ZOLTAN ADAM  
ARON ADAM  
ADAM ADAM**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS FOR ORDER AND ORDER  
(Delivered Orally in Toronto on December 18, 2013)**

[1] This case concerns an application for judicial review by a Roma couple from Hungary and their five children. The negative decision of the Refugee Protection Division of the Immigration and Refugee Board (the Board) which is at issue is dated September 14, 2012. The Board rejected the Applicants' convention refugee claims and claims for protection as not credible [the Decision].

## I. Background

[2] The principal applicant, Zoltan Adam [Zoltan], is a 43 year old Roma citizen of Hungary. Zoltan's common law spouse is Karolina Gonczi (38) [Karolina], and their 5 children range in age from 21 to 8 years old [the Applicants].

[3] On November 30, 2009, the Applicants say that a Molotov cocktail was thrown at the family home (the Arson). The attackers blocked the door so no one could leave. When Zoltan and his family tried to exit through windows, the attackers cut Zoltan's arm with a knife many times. They also pushed Karolina down into broken glass and kicked her repeatedly in the abdomen and head. Someone called Emergency Services and the perpetrators left the scene. The Fire Department arrived and concluded that the fire had been caused by arson. The police were called but they did not come to the house and the case was never investigated.

[4] Following the Arson, Zoltan and Karolina went to the local Roma Minority Council for help. However, they were told that the Council could not protect them and it would be better if they were to leave the country.

[5] On December 9, 2009, Zoltan and his family drove to Vienna and boarded a plane to Toronto. They made their claims for refugee protection on arrival.

## II. The Applicants' PIF

[6] The Board describes the original PIF narrative in the following manner in paragraph 5 of the Decision:

[5] In his original PIF narrative, the principal claimant refers to a number of concerns he had with regard to discrimination he and his family were subjected to while they resided in Hungary. He refers to the racial hatred in Hungary with regard to the ethnic Romani and he claimed that he and his family were subjected to verbal and physical attacks from racist skinheads and the Hungarian Guard, a neo-nazi organization. The principal claimant indicates that it is well-known that the Hungarian Guard are brutally murdering Hungarian citizens of Roma descent, they are throwing Molotov cocktails into Roma homes and they are simply terrorizing Romas in his country. The authorities and police in Hungary could not protect the claimants so they came to Canada to seek the protection of the Canadian government as Convention refugees.

[6] In their amended PIF narrative which was accepted for late filing, the principal claimant for the first time described a series of attacks against the Applicants in Hungary. The new narrative describes verbal and physical assaults by skinheads against the daughter and other children and also included incidents at their respective schools, at doctors' offices. As well, the minor claimant, Adam Zoltan, was involved in a hit-and-run accident caused by neo-nazis in 2006. The principal claimant's amended PIF narrative describes the Arson as the catalyst incident for the family's exit from Hungary.

### III. The Issues

[7] The principal question is whether the Board's negative credibility finding is reasonable.

### IV. Discussion

[8] The Decision was based on the following problems with the evidence given by the Principal Applicant.

a) *Denial of basic medical attention*

In oral testimony the Principal Applicant initially denied that he sought medical treatment after the Arson. The Principal Applicant later changed his testimony and said that he and his family had sought a doctor's help and had been refused. However, the amended PIF does not corroborate

the revised testimony. It does not mention that, after the Arson, the family sought medical help but was refused treatment. The change in testimony and the omission from the amended PIF were not adequately explained.

*b) The Police Opinion*

In his oral testimony the Principal Applicant said that, although a neighbour called the police they did not attend the Arson, take statements or investigate. Yet, the Principal Applicant also said that the police disputed the firefighters' opinion that arson had been the cause of the fire. When asked how the police could disagree if they had not investigated, no adequate explanation was given.

*c) The Molotov Cocktails*

The amended PIF does not mention that a second Molotov cocktail was thrown into the house; yet the Principal Applicant testified to that effect. He later admitted that his evidence was speculation.

*d) Injury to the Principal Applicant*

The amended PIF narrative says that the Principal Applicant was stabbed with a knife "many times" as he tried to exit a window to escape the fire. However, he orally testified that he was stabbed only once in the hand as he tried to leave through a door.

*e) Injury to the Wife*

The amended PIF narrative states that the Principal Applicant's wife was pushed down onto broken glass and kicked in the stomach and head. However, in oral evidence the Principal Applicant said she was injured by being pushed into a glass door. No mention was made of kicking.

f) *The Son's Accident*

The Principal Applicant said that in 2008, Adam Adam was followed by four neo-Nazis in a car. They crashed into him causing a broken arm and giving him head injuries. The Principal Applicant called the ambulance several times and also called the police. The ambulance did not arrive and the police refused to come apparently because the Applicants were Roma. The Principal Applicant testified that his brother Atilla had attempted to get medical proof of the boy's treatment but had been denied such proof because he was not Adam's father. This effort was confirmed in an email which was in evidence. However, the email was rejected as fraudulent because none of the Applicants' documents mentioned that the Principal Applicant has a brother named Atilla and because the email had no date, time, source or address or any of the other usual information that appears on an email that is *bona fide*.

[9] The Board concluded that the Arson did not occur and that the Applicants' entire refugee claim was fraudulent. The Board said:

The Amnesty International article, *Attacks against Roma in Hungary: January 2008-July 2011* noted above, clearly indicates that similar incidents have been investigated by the Hungarian police and a number of suspects have been caught and tried or are facing trial. The Panel notes that it is not reasonable or plausible that the complete destruction of the principal claimant's home would not have been outlined in this article since the article outlined similar incidents during this identical time frame. The Panel also notes, although the principal claimant testified that he sold this house to acquire the money to purchase airplane tickets to come to Canada, he has provided no proof that this home even existed or that he owned a structure that burned to the ground.

[...]

For all of these reasons outlined, the Panel determines, on a balance of probabilities, that it is not reasonable or plausible that the police did not attend or investigate this alleged criminal incident since the firefighters themselves indicated that the fire had been a deliberate case of arson. In the context of this oral testimony, the documentary evidence with regard to similarly recorded events and the factors outlined above, the Panel determines, on a balance of probabilities, that the principal claimant's testimony with regard to the lack of any assistance or investigation by the Hungarian police is neither credible nor plausible. The Panel further determines, based on the negative credibility findings it has noted above, that the principal claimant has invented this narrative to support a fraudulent refugee claim.

[10] In my view, all the credibility findings were reasonable.

#### Other Issues

[11] The Applicants ask me to reweigh the evidence about county conditions and conclude that the Board acted unreasonably when it decided that Roma people have adequate state protection and experience discrimination but not persecution. However, I have not been directed to any documents the Board failed to mention which are so fundamental that they could be said to justify a conclusion that these decisions are unreasonable.

[12] As well, the Board is criticized for failing to conduct a separate s.97 analysis. However, it is my view that the analysis is adequate even though it appears under the heading "State Protection". Further, a conclusion about the application of section 97 is specifically reached in paragraph 48 of the Decision.

#### Certification

[13] No question was posed for certification.

**ORDER**

**THIS COURT ORDERS that** for these reasons, the application for judicial review is hereby dismissed.

“Sandra J. Simpson”

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-11979-12

**STYLE OF CAUSE:** ZOLTAN ADAM, KAROLINA GONCZI, EVA ADAM,  
KAROLINA ADAM, ZOLTAN ADAM, ARON ADAM,  
ADAM ADAM, v THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** DECEMBER 18, 2013

**REASONS FOR ORDER AND  
ORDER:** SIMPSON J.

**DATED:** JANUARY 20, 2014

**APPEARANCES:**

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