



[2022] 1 F.C.R. D-11

**CITIZENSHIP AND IMMIGRATION**

STATUS IN CANADA

*Convention Refugees and Persons in Need of Protection*

Judicial review of visa officer's decision rejecting the applicants' sponsored application for permanent residence — Applicants family of four from Syria now residing in Lebanon — Facing religious persecution in Syria — Sponsored by Barrhaven United Church — Officer based decision on doubts regarding applicants' credibility — Finding discrepancies or absent documentation detailing applicants' entry into Lebanon — Not satisfied that applicants had been truthful — Applicants arguing officer unreasonably treated their residence in Lebanon as condition precedent to their eligibility for sponsorship under Convention Refugee Abroad Class or Country of Asylum Class — Respondent arguing officer based refusal on overall credibility assessment — Whether officer's decision reasonable — Officer's decision in this case not reasonable, falling short of justification required by *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, [2019] 4 S.C.R. 653 — Result herein *justifiable*, but not *justified* — In reviewing application under Convention Refugee Abroad or Country of Residence classes, officer cannot treat residence in country different from place of persecution or risk as an eligibility requirement — Applicant need only be outside of their country of risk at time of interview in order to be "eligible" for consideration under these categories — Where officer's credibility concerns relate to applicant's place of residence, law requires that officer specify how that concern relates to underlying credibility of applicant's narrative about risk — Question in this case whether officer made error of treating applicants' residency as condition for them to be eligible for consideration under relevant classes, or instead whether officer simply found they had not told truth, thus failed to meet essential requirement of *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 16 — Officer's decision tending to point in both directions — Structure of officer's decision letter also demonstrating problem — Officer not explaining what is meant by "eligibility", not discussing how statutory references cited in decision letter applying to applicants' case — Officer required to indicate how credibility findings relating to their place of residence pertinent to decision, show that residence not treated as eligibility requirement — Error in this case was that officer's decision ambiguous about what "eligibility" criterion applicants failed to satisfy — Decision not clear whether applicants failed to demonstrate they lived in Lebanon, or that they failed to satisfy officer they had fled Syria because of religious persecution — Application allowed.

GHOSSN V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-5885-21, 2022 FC 1338, Pentney J., reasons for judgment dated September 27, 2022, 12 pp.)