

Immigration and Refugee
Board of Canada

Refugee Appeal Division



Commission de l'immigration et
du statut de réfugié du Canada

Section d'appel des réfugiés

RAD File / Dossier de la SAR : [REDACTED]
[REDACTED]

Private Proceeding / Huis clos

Reasons and Decision – Motifs et décision

Persons who are the subject of
the appeal

[REDACTED]
[REDACTED]

Personnes en cause

Date of decision

April 4, 2022

Date de la décision

Panel

E. Bobkin

Tribunal

Counsel for the persons who
are the subject of the appeal

Peter G. Ivanyi

Conseil des personnes en
cause

Designated representative

N/A

Représentant(e) désigné(e)

Counsel for the Minister

N/A

Conseil du ministre

REASONS FOR DECISION

OVERVIEW

[1] I allow this appeal of ██████████ (Principal Appellant) and ██████████ (Associate Appellant), citizens of Romania. I set aside the decision of the Refugee Protection Division (RPD) and substitute a decision that the Appellants are Convention Refugees based upon their Roma ethnicity.

[2] The Appellants allege that they are Roma and that they have suffered discrimination and persecution. This includes: discrimination, harassment and abuse in school; discrimination in housing and employment; police harassment and abuse; and physical violence and harassment in public.

[3] The RPD rejected the Appellants' claim. The RPD concluded that the Appellants lacked credibility based largely on the Associate Appellant's relationship status, the Appellants' time in Italy and the United Kingdom (UK) and statements about their reasons for coming to Canada. The RPD then went on to assess documents about Roma in Romania and concludes that the situation does not amount to persecution and that there is state protection. The RPD also concludes that the Appellants could have had protection elsewhere in Europe. The RPD addressed an issue of alleged bias which arose in the hearing room and concluded that the test for bias was not met.

[4] The Appellants argue that the RPD erred. They argue that the RPD Member's conduct in the hearing demonstrated a reasonable appearance of bias and also that the RPD breached the Appellants' right to natural justice. The Appellants argue that the RPD erred in its credibility determination by drawing incorrect, unfair and unreasonable conclusions. In particular, the Appellants argue that the RPD put undue weight on their petty criminality. The Appellants also argue that the RPD erred in stating and applying the test of persecution and ignored country documents.

[5] The Appellants did not submit any new evidence or request an oral hearing with their record. After an initial review of the record, I sent notice to the Appellants' and the Minister, pursuant to *Alazar*,¹ that I would be considering issues beyond the scope of the memorandum and the RPD's decision. The notice also stipulated that I would be using specialized knowledge in adjudicating the bias question. In response to this, the Appellants made further submissions on bias.² I have considered these. The Minister responded to the notice and asked that the Appellants' record be re-sent to them, which was done. No further response from the Minister was received.

[6] I find that the RPD's decision is incorrect. I find that the Appellants have established a reasonable apprehension of bias in this case and that the credibility assessment is incorrect. On an independent assessment of the record, I find that the Appellants face a serious possibility of persecution on the basis of their ethnicity.

DECISION

[7] The appeal is allowed. I set aside the determination of the RPD and substitute my own decision that the Appellants are Convention refugees.

ANALYSIS

[8] My role is to look at all of the evidence and decide if the RPD made the correct decision.³ In this case, I find that the RPD's decision is not correct. I find that the Appellants have established a reasonable apprehension of bias in this case. I find that the reasonable apprehension of bias extends to the Member's decision-making in Romanian Roma claims. I also find that the RPD's credibility assessment is tainted by this bias. Therefore, I conducted an independent assessment of the record, and I find that the Appellants have established that they are Convention refugees.

The Appellants have established a reasonable apprehension of bias

[9] For the following reasons, I find that there is a reasonable apprehension of bias concerning the RPD Member's handling of refugee claims made by Romanian Roma claimants.

[10] In the RPD’s decision, there is a section titled bias where the RPD addresses a situation which arose at the hearing where the Appellants’ Counsel objected to a question of the RPD Member, and then the RPD Member asked whether Counsel was instructing the Appellants not to answer and whether Counsel was suggesting the RPD was biased. The RPD held that asking Counsel for the Appellants to clarify the objection did not lead to reasonable apprehension of bias.

[11] On appeal, the Appellants allege that the RPD was biased towards them by being fixated on minor issues, particularly petty criminality in Europe, and that this is apparent in the RPD’s reasons. The Appellants also argue that the RPD misstates the issue of bias that arose at the hearing and that, in fact, the RPD was asking the Appellants to confirm inaccurate facts, and this is what demonstrates bias. The Appellants also argue that the RPD ended the hearing abruptly without giving the opportunity for submissions (thus necessitating written submissions), and this contributes to a situation of bias. The Appellants argue that these issues, together with findings that the Appellants lied or submitted false evidence, lead to an appearance of bias.

[12] After reviewing the record, I notified the Appellants and the Minister that, in considering the issue of bias, I would be using specialized knowledge and considering two other cases I had adjudicated from this RPD Member. The Appellants responded to this notice listing two other files where the RAD had found this Member had made “similar if not identical” erroneous credibility and country conditions findings, as they allege occurred in this case. I have therefore considered these cases as well.

[13] In *Committee for Justice and Liberty v. National Energy Board*, the Supreme Court of Canada set out the test to determine the existence of a reasonable apprehension of bias:

[The] test is “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision-maker], whether consciously or unconsciously, would not decide fairly.”⁴

[14] There is a high burden on an appellant who seeks to establish either an actual bias or an apprehension of bias.⁵ This takes into account the presumption of impartiality, which applies to administrative tribunals.⁶ An allegation cannot rest on “mere suspicion, pure conjecture or mere

impressions,” and it “must be supported by material evidence.”⁷ In a more recent case, the Supreme Court of Canada endorsed the following definition of bias:

...a leaning, inclination, bent or predisposition towards one side or another or a particular result. In its application to legal proceedings, it represents a predisposition to decide an issue or cause in a certain way which does not leave the judicial mind perfectly open to conviction. Bias is a condition or state of mind which sways judgment and renders a judicial officer unable to exercise his or her functions impartially in a particular case.⁸

[15] In my view, this threshold is met based on several factors taken together:

- (a) the tone and demeanour of the RPD Member in this case;
- (b) the use of boilerplate reasons by this Member in Romanian Roma cases demonstrating an intermingling of personal evidence and;
- (c) a pattern of the RPD Member focusing on peripheral, microscopic and sometimes inappropriate credibility issues in this case and in other Romanian Roma cases.

[16] While the factors in (b) and (c) are more typically related to errors in findings of fact, in these particular circumstances, they shed light on a pattern that I find leads to, at the very least, the appearance that this Member is biased against these types of cases.

Tone and demeanour

[17] The context of a refugee hearing is challenging for all participants. It is inherently stressful for claimants. At times, emotions can run high. The role of an RPD Member is inquisitorial, which may necessitate asking difficult questions. There can be conflict between Board members and claimants or counsel. Not all instances of abrupt, impatient or challenging tone will amount to an apprehension of bias. However, this can form the basis for a finding of bias particularly where comments of the member become, intrusive, insensitive, sarcastic, hostile or intimidating.⁹

[18] In this case, there was an instance in the hearing which became quite tense between the Member and Counsel. The Member was asking about what had occurred with the Appellants in Italy, and the Counsel objected to the question. I have reproduced part of the exchange:

MEMBER: So, when your wife told the Italian police that she had no money to buy food that was a lie, correct?

COUNSEL: Sorry, as you would say to me, Mr. Member, that is a leading question and it is not supported by the overall evidence.

MEMBER: I didn't know that I was limited to non-leading questions, but nevertheless.

COUNSEL: Sorry, but the question.

MEMBER: You don't want them to answer the question, I will move on.

COUNSEL: No, I object. Okay, for the record, I object to the characterisation of the question. For the record, you are suggesting that when she told the police she had no money that was a lie and for you to suggest that I don't want my clients to answer the question shows bias on your part. It is now 10:30 and we have spent pretty much an hour-and-a-half talking about thefts and things like that in Italy. Clearly, the issue that you are examining here is entirely one of credibility. So, when you say to them, when you put to them something and then tell me that I don't want them answering that question is also a credibility issue, you are suggesting that I am aware that it is a credibility issue, so I am trying to protect them from a question, which is clearly not true. So, Mr. Member with respect, you are not only imputing their credibility, but mine. I completely understand that you have wide latitude in asking your questions, but I can't sit idly by why you impugn their credibility and then mine.

[...]

MEMBER: Okay, Counsel, we don't need to rehash. Is it your position that they, what is your position with respect to the question that was posed? Is it to be answered or not?

COUNSEL: You decide that I am not the adjudicator. I am simply pointing out that the question or actually no, it wasn't a question you put to him so when she told the police that she had no money was a lie, is without foundation because we don't know if she was earning any money at that point in time when she stole food. You decide whether the question is...

MEMBER: I am going to ask this for the last time. What is your position with respect to whether they answer the question or not?

COUNSEL: I don't understand what you are asking me. I am raising an objection to your question. You can overrule...no Sir, with respect, you can overrule my objection, but you can't ask me what my position is about, whether they should answer or not.

MEMBER: Well, you are objecting to them answering is that I am asking?

COUNSEL: I am objecting to the question.

MEMBER: Okay. We are going to take a 10-minute break.

COUNSEL: That is how it works Mr. Member. I object to the question. You then make a ruling on my objection.¹⁰

[19] I also listened to the audio recording of the hearing.¹¹ While the above interaction on its own may not be overly concerning, the tone of several of the Member’s comments were. For example, several of the comments were made with a sarcastic tone, such as “I didn’t know that I was limited to non-leading questions, but nevertheless.”¹² Several were made with an angry, argumentative tone such as “You don’t want them to answer the question, I will move on,” “Is it to be answered or not,”¹³ and “I am going to ask this for the last time.”¹⁴ And, at times, the Member interrupts Counsel. All of these issues together render this interaction concerning.

[20] The Principal Appellant also discusses the tone and demeanour of the RPD Member in his affidavit. He states that he felt bullied by the Member, that the Member “sneered” and “seemed condescending” and that the Member was “confrontational” towards Counsel.¹⁵ I find these descriptions are generally borne out in the recording of the hearing. On its own, I would not consider this to rise to a reasonable apprehension of bias. However, I am considering this issue in the context of other issues in this case and in others.

Use of boilerplate language

[21] I have now reviewed four other cases adjudicated by this Member relating to Romanian Roma claimants. When I indicated that I would be considering two of these cases in evaluating bias based upon my specialized knowledge, the Appellants submitted two other cases (one decided by me and one decided by another member) where they argue that the RPD made “erroneous similar, if not identical credibility, and country condition findings.”¹⁶ I have considered these for a total of five decisions rendered by this Member of Romanian Roma claims recently.

[22] Having reviewed the decisions in these cases, I find that there is substantial boilerplate language in the sections of the decision where the RPD assesses the risk on return to Romania.¹⁷ Boilerplate language alone does not necessarily raise a reasonable apprehension of bias. Generally, use of boilerplate is acceptable where the decision still addresses the particular evidence of the claimant, and where the boilerplate does not co-mingle the evidence before it.¹⁸ In my view, the boilerplate paragraphs used by this Member do not address particular evidence of the claimants before him and do co-mingle the evidence.

[23] For example, the RPD goes through the National Documentation Package (NDP) documents related to various areas where Romanian Roma claimants allege discrimination. In attempting to relate this evidence to the claimants, the RPD often uses the same language to set out the alleged fear. When discussing healthcare, the RPD opens all five decisions stating: “The claimant/s fear/s that if she/they were to return to Romania she/they would not get the same health care as Canada offers.”¹⁹ This boilerplate language ignores the actual allegations which were raised in each individual case about healthcare, including in this case: having to pay extra fees or bribes to receive healthcare, and being refused care when unable to pay.²⁰ This is a very different fear than being afraid of not getting the same healthcare that Canada offers.

[24] The same types of statements are made about employment and education, where the same imputed fear is put upon each claimant without applying the country conditions to their personal situations. While the reasons are not devoid of any mention of any claimant’s personal narratives, the use of these boilerplate statements is concerning.

[25] Additionally, in two cases where the boilerplate language is used, the evidence appears to have been co-mingled. In both cases, the RPD, in assessing education for Roma people states: “the claimant’s alleged experience of having been spit upon, having her hair pulled and locked out of the classroom by Romanian classmates is not mentioned as a feature of concern by ECRI. . .”²¹ Only one of the two narratives mentions being spit on in school, and the allegations of mistreatment in school are distinct in the two cases. In my view, this is an improper co-mingling of personal evidence in the boilerplate portion of the reasons.

[26] For these reasons, I find that the RPD Member’s use of boilerplate reasons in decisions is concerning. Again, this issue on its own would not necessarily give rise to a reasonable apprehension of bias. However, it is one factor which I have considered.

Pattern of incorrect assumptions and inappropriate credibility findings

[27] In the four other decisions reviewed in considering this bias application, I and another RAD Member have found that the RPD’s credibility assessment is incorrect. In making these findings, all four decisions reveal the same errors taking place. The RPD Member repeatedly

makes credibility findings based upon peripheral issues, often focusing on petty criminality or claimant's marital histories, and RPD Member also bases credibility determinations on microscopic discrepancies, sometimes without putting inconsistencies to the claimants. The RPD Member also makes plausibility findings which are not in the clearest of cases. For example:

- (a) In two cases, the RPD Member disbelieved female claimants based upon relationships they were in which they alleged they entered into to facilitate travel to Canada, which was found to be peripheral.²² This is also a credibility concern raised in this case.
- (b) In two cases, the RPD Member made credibility findings based on minor inconsistencies in descriptions of the length of time claimants spent in school before leaving due to bullying or rape, when these incidents occurred many years before the hearing.²³
- (c) In one case, the RPD Member made credibility findings about allegations of what occurred to appellants in European countries other than Romania, which was found to be peripheral.²⁴ The same issue arises in this case. The Member has also, in at least two cases, made findings that Romanian claimants should or can claim protection elsewhere in Europe. These have also been overturned.
- (d) In two cases, the RPD made plausibility findings about sexual assaults. In one case, the RPD found an assault did not occur because it was not plausible that the assailant said he did not like Roma people.²⁵ In another, the RPD found that it lacked plausibility that the abuser would harass the claimant even though he said he wanted to marry her, which would be an unusual way to attract a spouse.²⁶ Both findings were found to be incorrect, and one was also found inappropriate.
- (e) In another case, the RPD found it lacked plausibility that children bullying a Roma classmate would threaten her with death unless she left Romania because it was not plausible that children would expect another child to leave the country.²⁷

- (f) In one case, the RPD Member disbelieved a rape because he found it was omitted from the Basis of Claim form (BOC) despite the BOC stating that the claimant was “abused,” became pregnant and had to go to the hospital. The RAD found that this was not an omission and also that this had not been put to the claimant.²⁸ The RAD Member also found that the RPD Member had relied on peripheral issues in discounting the rape, including: the address of the building where it happened and the details of how she paid for her abortion.
- (g) In one case, the RPD Member found the claimant was less credible because she had engaged in petty criminality in Canada, rather than “honest work.”²⁹ This was found an error. Criminality is also a credibility concern in this file.

[28] The above summary is merely a sample of the types of inappropriate assumptions and erroneous credibility findings made by the RPD Member in Romanian Roma claims and is by no means exhaustive of the concerning credibility findings made by this Member. In my view, all of these types of credibility findings demonstrate a zealotry to discount claimants in Romanian Roma claims and relies on stereotypes or myths, in particular with respect to gender-based violence.

[29] In addition to this, the RPD has made comments about the Roma ethnicity that belie a fundamental misunderstanding of ethnicity, asking a claimant whether she could “extricate” herself from the group.³⁰ This was found to be an insensitive and inappropriate line of questioning which failed to appreciate that one cannot simply leave an ethnic group.³¹

[30] I recognize that the Court has held that the fact that a particular Board member has a history of refusing certain types of claims is insufficient to establish bias.³² However, in my view, this extends beyond the fact that all of these claims were rejected and demonstrates that they were all rejected in the same manner for the same erroneous reasons.

Erroneous Credibility Findings in this Case

[31] As described above, the pattern of erroneous credibility findings continues into this case. As the Appellants argue the RPD's credibility findings are minor, peripheral and microscopic.³³ They are also based on improper plausibility findings.

[32] For example:

- (a) The RPD found it implausible that the Principal Appellant started school at the age of 9 or 10 and was younger than other children, when kindergarten starts from ages three to six, and when the generic form stated that the Principal Appellant started school at age 5.³⁴ The RPD used this to conclude that the PA did not go to school and therefore was not discriminated against. I find this to be a plausibility finding which is not made in the clearest of cases and also peripheral, as there is no assessment of the PA's allegations of what occurred in school and whether this is credible. It side-steps the core allegation.
- (b) The RPD found that the Associate Appellant's marriage of convenience to exit Romania undermined her credibility, particularly because a document referred to her in reference to this legal spouse, and not the Principal Appellant.³⁵ As in the cases discussed above, I find that the marital situation of the Associate Appellant is peripheral, and this was not a valid basis to make this claim.
- (c) The RPD found inconsistencies in the Appellants' account of working in Italy and the fact that they had admitted to stealing there (without what the RPD viewed as a satisfactory response) undermined the Appellants' credibility.³⁶ I find that, as with the case described above, the Appellants' petty criminality is not relevant to the credibility of the alleged discrimination and persecution they faced in Romania.

[33] These are just a few examples of the RPD's erroneous credibility findings. I highlight them both to explain how this decision follows the same pattern as the other decisions made by this

Member with regard to Romanian Roma claimants and also to conclude that I cannot uphold this credibility assessment.

Conclusion on Bias

[34] When I consider all of the above factors together, I find that a reasonable person would conclude that this Board Member has a predisposition against Roma claimants from Romania. I find that the test for a reasonable apprehension of bias is met. The five decisions reviewed in this appeal reveal that the Member has inappropriately used boilerplate reasons and has repeatedly engaged in a pattern of credibility findings based on inappropriate considerations. Looking at these patterns along with the confrontational and sarcastic tone used in this RPD hearing, I find the test for bias is made out.

[35] I therefore overturn the decision made in this case and conduct my own independent assessment of the claim below.

The Appellants meet the test for Convention Refugee Status

[36] For the following reasons, I find that the Appellants meet the test for Convention refugee status.

The claimants are credible, on a balance of probabilities

[37] Having reviewed the record, including the transcript and recording of the hearing, I find that the Appellants are credible, on a balance of probabilities.

[38] The Appellants' testimonies were generally consistent with the central allegations of the BOC. They testified in a straightforward manner. They gave evidence to establish their Roma identities, including the Principal Appellant explaining the Appellants' arranged marriage and how this is common in the Roma community.³⁷ He also testified about playing Romani music. The Appellants also provided documents from the Roma Community Centre in Toronto, corroborating their Roma ethnicity, including their clan.³⁸

[39] The Appellants also testified credibly about problems they had because of their Roma ethnicity, including having to pay bribes to obtain medical care, being physically abused in school.³⁹ They testified about the living conditions in the Roma community where they live, including lack of running water, hydro and indoor toilets.⁴⁰ The Appellants also provided supporting documents stating that they faced discrimination and problems with racists and police in Romania.⁴¹

[40] I recognize that the Appellants' testimonies were not perfect. There were minor inconsistencies in dates, particularly with regard to the forms filled out to initiate the refugee claim. Perfection is not the standard required, rather appellants must establish their allegations, on a balance of probabilities. In this instance, I find that they have.

The Appellants face a serious possibility of persecution and do not have access to adequate state protection or an internal flight alternative

[41] For the following reasons, I find that the Appellants face a serious possibility of persecution and do not have access to adequate state protection or an internal flight alternative.

[42] First, as stated above, I accept the Appellants allegations, on a balance of probabilities. Therefore, I accept that they are Roma and that they have faced discrimination and persecution, including: bullying and violence in school, discrimination in accessing healthcare, and physical abuse from police officers. I am not considering the issue of whether this is a situation of discrimination amounting to persecution because I find that physical assault by a state actor on the basis of ethnicity constitutes persecution.

[43] I also find that the Appellants' testimonies are in line with the documentary evidence. The NDP describes persecution against Roma, including: continued police abuse of Roma and discrimination against Roma continues, such as denial of access to public places, poor access to government services, shortage of employment opportunities, high rates of school attrition and inadequate healthcare.⁴² The United States (US) Department of State (DOS) reports: "there were reports from NGOs and media that police and gendarmes mistreated and abused Roma, primarily with excessive force, including beatings."⁴³ The report also notes that crimes of violence targeting

ethnic minorities remain one of Romania's significant human rights issues, that Roma face discrimination because there is a misconception that they are responsible for the spread of COVID-19 and that they face discrimination and police brutality.⁴⁴

[44] In my view, looking at the Appellants' personal experiences and the country documents, the Appellants have established a serious possibility of persecution based upon their ethnicity, which is a Convention ground.

[45] As described above, both the Appellants' past experiences and the documentary evidence establish that state actors are perpetrators of violence against Romani people. Documentary evidence in the NDP shows that the police continue to be violent towards Roma.⁴⁵ Where Roma are the victims of crime, they may end up charged with a crime.⁴⁶ Government officials have made discriminatory statements against Roma and have been involved in attacks against Roma.⁴⁷ This is echoed in documents submitted by the Appellants which describe an increase of police brutality against Roma as a result of abuse of COVID-19 policies; the rounding up and beating of Roma men by police; and ethnic profiling by Romanian police.⁴⁸ In my view, this establishes that police are an agent of persecution, and therefore the Appellants do not have access to adequate state protection.

[46] I recognize that there is evidence of some efforts of the Romanian state to protect Roma people such as laws prohibiting discrimination.⁴⁹ However, efforts do not amount to state protection, operational effectiveness does. The fact that police violence against Roma people is continuing and increasing leads me to conclude that efforts have not translated into protection at this time. For this reason, I find that the Appellants do not have access to adequate state protection in Romania.

[47] I also find the Appellants do not have access to an adequate internal flight alternative. The evidence on the record establishes that country conditions for Roma people are the same across Romania, and therefore I find that the risk of persecution exists across the country.

CONCLUSION

[48] The appeal is allowed. I set aside the determination of the RPD and substitute my own decision that the Appellants are Convention refugees.

(signed) Erin Bobkin
E. Bobkin

April 4, 2022
Date

¹ Exhibit RAD-1, Notice to Appellant and Minister re Alazar, December 17, 2021; and *M.C.I. v. Alazar* (F.C., no. IMM-1168-20), Norris, June 21, 2021, 2021 FC 637.

² Exhibit P-3, Appellants' Response to Member's Notice.

³ *M.C.I. v. Huruglica, Bujar* (F.C.A., no. A-470-14), Gauthier, Webb, Near, March 29, 2016, 2016 FCA 93; *Rozas del Solar, Paola v. M.C.I.* (F.C., no. IMM-2645-17), Diner, November 14, 2018, 2018 FC 1145.

⁴ *Committee for Justice and Liberty et al. v. National Energy Board et al.*, [1978] 1 SCR 369, 1976 CanLII 2 (SCC), at p. 394.

⁵ *Arsenault-Cameron v. Prince Edward Island*, [1999] 3 SCR 851, 1999 CanLII 641 (SCC), at para. 2; *Alam v. M.C.I.* (F.C., no. IMM-236-17), Southcott, June 29, 2017, 2017 FC 639, at paras. 20-21.

⁶ *Fehr v. Canada (NPB)* (1995) 93 FTR 161 (TD), at para. 22; *R. v. S. (R.D.)*, 1997 CanLII 324 (SCC), at para. 92.

⁷ *Arthur v. Canada (AG)*, (F.C.A., no. A-333-99), Décary, Létourneau, Noël, July 4, 2001, 2001 FCA 223, at para. 8.

⁸ *Wewaykum Indian Band v Canada*, 2003 SCC 45, at para 58.

⁹ *Chaudhry v. M.C.I.* (F.C., no. IMM-6226-05), Barnes, August 24, 2006, 2006 FC 1015;

Diallo v. M.C.I. (F.C., no. IMM-3546-11), O'Reilly, May 9, 2012, 2012 FC 562.

¹⁰ Transcript of the RPD Hearing on March 4, 2021, at pp. 21-22.

¹¹ Audio Recording of the RPD Hearing, from 01:26:50 to 01:33:45.

¹² Transcript of the RPD Hearing on March 4, 2021, at p. 21.

¹³ *Ibid.*, at p. 21.

¹⁴ *Ibid.*, at p. 22.

¹⁵ Exhibit P-2, Appellants' Record, at p. 44.

¹⁶ Exhibit P-3, Appellants' Response to Member's Notice, para. 4.

¹⁷ See TC1-09343, TC1-06324, TC1-04729, TC1-04635.

¹⁸ *Gomez Cordova v. M.C.I.* (F.C., no. IMM-4086-08), Snider, March 24, 2009, 2009 FC 309;

M.C.I. v. Abdul (F.C., no. IMM-1459-09), Kelen, September 25, 2009, 2009 FC 967.

¹⁹ Exhibit RPD-1, RPD Record, at p. 19, para. 59; and RPD's Reasons contained in RAD records TC1-09343, TC1-06324, TC1-04729, TC1-04635.

²⁰ Transcript of the RPD Hearing on March 4, 2021, at pp. 28-29.

²¹ TC1-04635 decision, para. 85; and TC1-04729 decision, at para. 59.

²² TC1-06324; TC1-04635.

²³ TC1-06324; TC1-04729.

²⁴ TC1-04635.

²⁵ TC1-06324.

²⁶ TC1-09343.

²⁷ TC1-04635.

²⁸ TC1-09343.

²⁹ TC1-04729.

³⁰ TC1-04729.

³¹ TC1-04729.

³² *Xuan v. M.C.I.* (F.C., no. IMM-8541-12), O'Reilly, June 18, 2013, 2013 FC 673.

³³ Exhibit P-2, Appellants' Record, at p. 69.

³⁴ Exhibit RPD-1, RPD Record, at p. 5.

³⁵ *Ibid.*, at p. 7.

³⁶ Exhibit RPD-1, RPD Record, at pp. 10-11.

³⁷ Transcript of the RPD Hearing on March 4, 2021, at p. 7.

³⁸ Exhibit RPD-1, RPD Record, at pp. 188-189.

³⁹ Transcript of the RPD Hearing on March 4, 2021, at pp. 27-30, 34.

⁴⁰ Transcript of the RPD Hearing on March 4, 2021, at pp. 33-34.

⁴¹ Exhibit RPD-1, RPD Record, at pp. 301, 304.

⁴² NDP for Romania (August 31, 2021), item 2.1, US DOS, "Romania: Country Reports on Human Rights Practices for 2020", March 30, 2021.

⁴³ NDP for Romania (August 31, 2021), item 2.1 (*ibid.*), at p. 3.

⁴⁴ NDP for Romania (August 31, 2021), item 2.1 (*ibid.*), at pp. 1 and 29.

⁴⁵ NDP for Romania (August 31, 2021), item 2.1 (*ibid.*).

⁴⁶ NDP for Romania (August 31, 2021), item 2.1 (*ibid.*), at p. 30.

⁴⁷ NDP for Romania (August 31, 2021), item 13.12, European Roma Rights Centre, "Romania: Roma Rights in the Time of COVID", September 2020, at p. 35.

⁴⁸ Exhibit RPD-1, RPD Record, at pp. 227-240.

⁴⁹ NDP for Romania (August 31, 2021), item 13.4, Immigration and Refugee Board of Canada (IRB), Response to Information Request (RIR) ROU200706.E, "Situation and treatment of Roma, including ability to access housing, employment, education, and healthcare; state protection; impact of COVID-19 ...", August 11, 2021, at p. 4.