

CANADA / JUDGMENT

Mohamed v. Canada (Citizenship and Immigration)

2026 FC 563

COURT

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DECIDED

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Montréal, Québec, April 29, 2026

PRESENT: The Honourable Madam Justice Ferron

BETWEEN:

Ahmed Farah Mohamed

Applicant

and

THE Minister of Citizenship and Immigration

Respondent

JUDGMENT AND REASONS

I. Overview [1] The Applicant, Ahmed Farah Mohamed, brings an application for judicial review against a decision dated December 19, 2024 [Decision], by the High Commission of Canada in Tanzania [HCC]. This Decision denied Mr. Mohamed's application for a Canadian permanent resident visa, finding that he was not a member of the Country of Asylum Class, as defined in section 147 of the Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR], or a member of the Convention Refugee Abroad Class, as defined in section 145 of the IRPR and section 96 of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA].

[2] Mr. Mohamed is a 37-year-old citizen of Somalia, who has had several hostile experiences with the terrorist organization Al-Shabaab. First, while working as a truck driver between his hometown of Elgal and Beledweyne, a nearby city, he received threatening calls demanding money to drive on his route, and a colleague who did not pay was killed. Finding this frightening, he then left his work as a truck driver and opened Guure Restaurant in Elgal. In addition to taking paying customers, this restaurant received donations in food and money from a local shop keeper and members of the Somali diaspora, who paid Mr. Mohamed to give two free meals per day to approximately 30 orphans and children whose fathers had been killed, as well as to others in the local poor population. Eventually he was again contacted by Al-Shabaab in relation to these activities, they demanded he pay them the money he received every month. He refused. On February 1, 2020, around 7 p.m., Al-Shabaab sent assassins to the restaurant, and when they realized the Applicant was not there, they killed his brother. Fearing for his life, Mr. Mohamed fled Elgal, eventually arriving in Kampala, Uganda, which is where he currently resides, and from where he makes this application for judicial review.

[3] From the outset, it is important to note that the Officer made no adverse findings of credibility against Mr. Mohamed. Still, notwithstanding the incidents that had previously occurred, the Officer's very brief decision held that there was no present or forward-looking risk for Mr. Mohamed, as required under both the Country of Asylum Class and the Convention Refugee Abroad Class, and therefore refused his application. The Officer based their decision on the findings that Mr. Mohamed is an ordinary civilian, unaffiliated with targeted organizations such as the military, government, or aid groups, and that it is not consistent with past conduct of Al-Shabaab to pursue an ordinary citizen in a government-controlled area. And, as evidenced by the United Nations High Commissioner for Refugees [UNHCR]'s program allowing for the voluntary repatriation of refugees, the Officer found that it was no longer necessarily dangerous for refugees to return to Beledweyne, particularly because the Officer found that the Federal Government of Somalia has military control of Beledweyne.

- [4] Mr. Mohamed contends that the Decision is unreasonable because it failed to properly assess and interpret his evidence about personal risk from Al-Shabaab given his past experiences with them and his personal characteristics (including the assassination of his brother). He also submits that the Officer failed to properly assess ongoing security risk in Somalia, relied on outdated sources and misinterpreted the risks to Mr. Mohamed specifically. The Officer also drew conclusions contrary to the evidence before them and without proper reference to it, including when the Officer stated that the African Union Mission to Somalia [AMISOM] was still active, though it was disbanded in 2022, and that Beledweyne was under government control, when there was evidence before the Officer that clearly contradicted these findings.
- [5] In response, the Minister of Immigration and Citizenship [Respondent] submits that the Decision is the product of a rational, intelligible and internally coherent chain of analysis and that the decision maker meaningfully addressed the evidence and arguments that the Applicant put before them. The Respondent also submits that Mr. Mohamed's affidavit evidence concerning his clan, and some events in Somalia, is inadmissible because the allegations contained therein were not before the decision maker.
- [6] For the reasons that follow, the application will be granted. While the Court recognizes that the volume of immigration matters that officers have to handle is very high, they still have to grapple with the facts and relevant evidence provided, even if country conditions are complex. The Officer in the present matter did not properly assess and interpret the evidence and failed to appropriately consider Mr. Mohamed's personal risk. The very short Decision is so obviously unreasonable that this matter should have been returned for redetermination without the need for this Court's involvement.

II. Factual background [7] Mr. Mohamed was born in 1988 in Elgal, near the city of the Beledweyne. He worked as a truck driver in the Hiraan region of Somalia, where Al-Shabaab has historically fought with and against clan militias. Mr. Mohamed felt unsafe working as a truck driver due to Al-Shabaab's extortion of truck drivers, which he experienced himself. He explains that he received threatening calls demanding money to drive on his route and that one of his colleagues who did not pay was killed. Therefore, in 2019, he left this job and opened a restaurant in Elgal, called Guure.

- [8] Soon after opening Guure Restaurant, Mr. Mohamed was approached by a businessman who owned a large dry food store in Beledweyne, importing food into Somalia through the Bosaso or Bosassa Port. This businessman was connected to members of their shared sub-clan who were living in diaspora communities and wanted to help feed the local poor. He provided Mr. Mohamed with dry goods, cooking oil and a small salary with which the Applicant bought additional ingredients (such as meat and vegetables) and began providing charitable meals to the local poor population. These meals were provided twice per day, seven days a week, mainly to poor children whose fathers had died, orphans, and some older people.

- [9] In mid to late January 2020, Al-Shabaab contacted Mr. Mohamed. In his affidavit, he states that on the call, Al-Shabaab's representative said "we know that you are connected to western people and the diaspora, and we know that these people are financially supporting you." Mr. Mohamed further states that Al-Shabaab believes that every person undertaking humanitarian work is an ally of the west, and that humanitarian aid comes from Western Governments, or diaspora members allied to the Western Governments, which it opposes. (Emphasis added) These details in Mr. Mohamed's affidavit are not included in his case narrative, nor in the notes that the Officer took of Mr. Mohamed's interview. Hence, it is not clear whether they were brought up before the Officer. However, in his case narrative, Mr. Mohamed did explain that Al-Shabaab demanded that he give them the aid money he had received and the funds from his restaurant, but he refused.
- [10] On February 1, 2020, three gunmen from Al-Shabaab came to Mr. Mohamed's restaurant at closing time. Mr. Mohamed was not there, but his brother was. The gunmen killed his brother and another colleague. This was carried out in the view of villagers, who then told Mr. Mohamed what happened.
- [11] After the murder of his brother, Mr. Mohamed left Elgal on foot and went to the city of Beledweyne on the 8th of February 2020. There, he was called again by Al-Shabaab stating they knew he was in Beledweyne, so he took a plane to Mogadishu on the 11th of February 2020. On the advice of relatives, who stated he was still in danger in Mogadishu, he took another flight to Doble (Somalia) on February 12, 2020. He left Somalia on February 14, 2020, taking a taxi to Nairobi (Kenya). From there he took a bus to Kampala (Uganda), which is where he currently resides.
- [12] Since Mr. Mohamed fled, his mother received several calls from Al-Shabaab (in June and July 2022) asking where he was. Mr. Mohamed interpreted this as evidence that the group was continuing to target him.
- [13] Mr. Mohamed also submits that since he left Somalia, the war between the Federal Government and Al-Shabaab has continued. The African Union has had active peacekeeping missions in the country since 2007. These missions included AMISOM which lasted until 2022, and its successor, the African Union Transition Mission in Somalia [ATMIS], which ended in December 2024 to be replaced by the African Union Support and Stabilization Mission in Somalia (or AUSSOM). As international support decreased, the tensions between the Federal Government and other local actors increased. As a result, the insecurity in the country also increased. In 2025, Al-Shabaab even started encroaching on the country's capital of Mogadishu, threatening the Federal Government's control of the city. The Somali army has therefore increasingly relied on clan militias for military assistance.
- [14] The status of Beledweyne is disputed. While the Officer indicated that the city is under government control, this is contrary to Mr. Mohamed's account of the conflict since he left. Mr. Mohamed indicates that Al-Shabaab is in proximity to the city, and especially to the neighbouring town of Elgal, and has continued fighting with the government nearby.

Furthermore, the Officer's position is also contrary to the map of regional control from the European Union Agency for Asylum [EUAA] included in the EUAA's February 2023 "Somalia: Security Situation" report [Somalia Security Situation Report]. Since the Officer seemed to rely on this Report, and that this map clearly shows the area in question as having mixed or unclear control, this conclusion drawn by Officer appears unreasonable. (Note: As will be discussed below, this Somalia Security Situation Report is not part of the Certified Tribunal Record [CTR] but is referred to in the Officer's notes, with a now nonfunctioning hyperlink. The same is true of the other report the Officer seemingly relied on, which is discussed below.)

- [15] It should be noted that the Officer also linked to a EUAA's report titled "Somalia – Targeted Profiles" from 2021 [Somalia-Targeted Profiles Report] in the refusal note. This report also contained a map showing which force or entity controlled which area of the country that appears to indicate that Beledweyne was then under the control of the Federal Government, albeit between two areas of mixed control. The Somalia Security Situation Report presents this map side by side with its updated 2023 version on which one can clearly see that Beledweyne was no longer in between areas of mixed control but squarely in a contested zone. While the Officer included the links to both the 2021 and the 2023 reports in their Decision, their findings are only consistent with the 2021 version. Given that the 2023 Report displays the two maps side by side, it is surprising that the Officer would not have seen the evolution in the situation given its importance to this matter.

III. Decision under review [16] The Global Case Management System notes from the Officer, which form part of the decision (*El Hajj v Canada (Citizenship and Immigration)*, 2025 FC 2031 at para 7 citing *Mohammed v Canada (Citizenship and Immigration)*, 2025 FC 1933 at para 9), shed light on the Officer's reasoning. The Officer made no adverse credibility findings against Mr. Mohamed but nonetheless dismissed his claim. The Officer found that he did not meet the criteria for the Convention Refugee Abroad Class since there was no forward-facing risk of persecution upon return to Beledweyne. However, this conclusion is based on the Officer's findings that "the city and its surroundings are controlled by the Federal government and Amisom" which, as already mentioned above, the country evidence before the officer shows was not the case.

- [17] The Officer also found that Mr. Mohamed was an ordinary civilian who does not face a serious and individual threat to his person, because he "has no connection with the government, the military, is not wealthy, do [sic] not work with an NGO and is not a prominent person in Somalia", all factors which would make someone the sort of "carefully selected target" that could be the subject of an attack by Al-Shabaab "in the areas controlled by the Federal government". [Emphasis added] The Officer also found that the events described by Mr. Mohamed happened approximately 4.5 years ago and that it would be inconsistent with "the information we have for Al-Shabaab to target an 'ordinary civilian' of no high importance value that long after the event in a city controlled by the Federal government" [Emphasis added]. Furthermore, the Officer found that the restaurant was

targeted for receiving money from the diaspora but that the Applicant was no longer involved with either. They also reasoned that the UNCHR's program for voluntary return to Somalia indicates that a return is viable and possible.

- [18] On the issue of Country of Asylum Class, the Officer found that Mr. Mohamed has not been and does not continue to be seriously and personally affected by civil war, armed conflict, or human rights abuses. They found that he was not personally and severely affected, and that he is an ordinary civilian who does not face a real risk of a serious and individual threat to his person.

IV. Parties' submissions A. Applicant's submissions [19] Mr. Mohamed identifies two main issues in the decision maker's reasoning. First, he alleges that the Officer failed to adequately interview him and misapprehended his evidence regarding the fact that he was treated by Al-Shabaab not as an ordinary citizen but as a person of interest given his specific individual circumstances. Second, he claims that the Officer erred in finding that it was safe to return to the Beledweyne region, both as a result of confusion regarding the facts and because the Officer failed to apply the correct standard of risk. For each of these issues, he provides multiple arguments or submissions.

- (1) Applicant's submissions concerning the Officer's personal profile findings [20] The Applicant asserts that during the interview, the Officer asked insufficient questions about the core constitutive elements of the narrative allegations. The Applicant states that "the reasons in the case at bar contain no indication of any question asked or areas of inquiry whatsoever", in contrast to the practice described in cases such as *Fisehaye v Canada* (Citizenship and Immigration), 2022 FC 1358 at paragraphs 27-30; *Ghirmatsion v Canada* (Citizenship and Immigration), 2011 FC 519 at paragraphs 38-39; and *Woldesellase v Canada* (Citizenship and Immigration), 2011 FC 522 at paragraph 30.
- [21] Mr. Mohamed further submits that the Officer failed to consider how the food aid provided by the Applicant to the poor and his indirect relation with the diaspora could cause him to become a particular target for Al-Shabaab, changing his overall risk profile. He submits that it is impossible to discern from the short Decision if the Officer considered how these characteristics might have related to Al-Shabaab's "targeting effort resulting in the assassination of his brother". The Applicant suggests that as a person targeted for his alliance with the West, he would be in danger even in a government-controlled area, citing the Somalia-Targeted Profiles Report.
- [22] The Applicant cites case law noting that overlooking material evidence and making findings of fact without regard to the totality of the evidence constitutes a reviewable error (*Cepeda-Gutierrez v Canada* (Minister of Citizenship and Immigration), 1998 CanLII 8667 [Cepeda], including at para 17, and *Owusu-Ansah v Canada* (Minister of Employment and Immigration), 1989 CanLII 13077 (FCA) at pp 112-114 [Owusu-Ansah]).

- [23] In his affidavit, the Applicant also makes numerous submissions about the risk arising as a result of his clan and sub-clan membership, (the Madhweyne-Ise subclan of the Hawadle clan), whose militia began fighting Al-Shabaab in 2022 (as well as being involved in in-fighting between sub-clan militias). This clan's militia motivated other clans to take up arms in rural areas. Al-Shabaab has directed attacks at family members of those it considers its enemies, even in areas seemingly under government control. While the Applicant's submissions regarding clan and sub-clan membership's impact are included neither in his case narrative, nor in the notes that the Officer took of Mr. Mohamed's interview, he submits that the central importance of clan membership in evaluating forward-looking risk for anyone living in Somalia, especially in the Beledweyne region, should have been obvious to anyone familiar with the country's situation and given the country condition evidence specifically referred to by the Officer. Hence, it is something that the Officer should have considered.
- [24] The Applicant submits that the Officer's reasoning is thus inconsistent with the obligation of the decision maker to demonstrate that "they are mindful of every ground of persecution alleged, even if these are left unstated by the Applicant". In support of this statement of law, the Applicant cites *Ameeri v Canada* (Citizenship and Immigration), 2013 FC 373, at para 20; *Varga v Canada* (Citizenship and Immigration), 2013 FC 494, at para 5; *Mmono v Canada* (Citizenship and Immigration), 2013 FC 219, [Mmono] at para 15; *Adan v Canada* (Citizenship and Immigration), 2011 FC 655 [Adan] at para 39; and *Pastrana Viafara v Canada* (Minister of Citizenship and Immigration), 2006 FC 1526, at para 13.
- [25] Similarly, the Applicant submits that knowing that Mr. Mohamed provided food aid and that humanitarian workers were targeted by Al-Shabaab, it was unreasonable for the Officer to fail to consider these elements in determining the forward-looking risk assessment, even though this was not specifically raised in Mr. Mohamed's submissions. The Applicant submits that irrespective of his limited wealth, because of his food aid work, he was likely to be seen as a community leader, as well as an outpost of western and clan-based social infrastructure, which Al-Shabaab does not permit in the areas it controls. The Applicant submits that failure to appropriately analyze the social position of Mr. Mohamed is analogous to the errors described in *Pimental Colmenares v Canada* (Minister of Citizenship and Immigration), 2006 FC 749, [Pimental] at paras 12-14, where the court found a reviewable error in the Board's interpretation that Mr. Pimental was a low-level affiliate of a politically marginalized group.
- [26] The Applicant further pleads that the threshold to establish a well-founded fear of persecution and be recognized as a Convention refugee is much lower than the usual civil standard of proof. Claimants do not have to prove that it is more likely than not that they will be persecuted (that they will suffer persecution on the balance of probabilities), only that the facts giving rise to their fear are true on a balance of probabilities, and that they have a well-founded fear of risk. The Applicant then cites the Officer's own documents to provide evidence that persons with the Applicant's profile, even if they are not wealthy, have

well-founded fears of risk, even in areas of government control. He submits that the Officer ought to have addressed this evidence as it contradicted their conclusions (again citing Cepeda at para 17, and Owusu-Ansah at pp 112-114).

- [27] The Applicant submits that the lack of consideration of Mr. Mohamed's specific circumstances which elevate his risk profile (such as his dealings with Somali diaspora members and his clan identity) led the Officer to misapprehend the factual basis for his risk level and minimize the importance of his brother's killing. He pleads that this misapprehension of key pieces of evidence, and the failure to account for the contradictory evidence before the Officer, are grounds for a finding that the decision was unreasonable, per *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [Vavilov] at paragraph 126.
- (2) Applicant's submissions concerning the Officer's country condition findings [28] On the second issue of whether Mr. Mohamed would be safe in Somalia, the Applicant submits that the Officer's reasons are not sufficiently clear as to why they concluded that Somalia is safe. The Officer's sources are voluminous and present a varied picture of risk in Somalia, but the Applicant submits that they do not support the conclusion that Somalia (as a whole) is safe (for all ordinary people). They submit "that the failure to cite any passages or sections renders the document[s] relevance completely opaque and makes it impossible to establish what evidence was found to be probative. [...] The courts have repeatedly found that where [the decision maker] fails to discuss important and contradictory evidence, the only conclusion to be drawn is that the board ignored or misapprehended key facts and came to an erroneous decision".
- [29] In support of this point, the Applicant cites many cases where "the failure to cite contrary evidence concerning state protection was sufficient to cause the court to review the decision" (*Sokol v Canada (Citizenship and Immigration)*, 2009 FC 1257 [Sokol] at paras 24-30; *Canto Rodriguez v Canada (Citizenship and Immigration)*, 2009 FC 262 at paras 56, 60-61; *Chaves v Canada (Minister of Citizenship and Immigration)*, 2005 FC 951, at paras 10-11; *King v Canada (Minister of Citizenship and Immigration)*, 2005 FC 774 at para 15; *Ramsaywack v Canada (Minister of Citizenship and Immigration)*, 2005 FC 781 at paras 13-15; *Yu v Canada (Minister of Citizenship and Immigration)*, 2005 FC 794 at paras 24-25; *Katwaru v Canada (Citizenship and Immigration)*, 2007 FC 612, at para 14-22; *Loshkariev v Canada (Minister of Citizenship and Immigration)*, 2006 FC 670 at para 12; *Kaur v Canada (Minister of Citizenship and Immigration)*, 2005 FC 1491 at paras 26-30; *Roberts v Canada (Minister of Citizenship and Immigration)*, 2004 FC 1460, at paras 17, 21). These decisions support the idea that while there is a presumption that countries are capable of protecting their citizens, this presumption can be rebutted with "clear and convincing evidence concerning the state's inability to protect". While the decision maker is presumed to have considered all evidence before it, this presumption can be rebutted if relevant evidence which is not mentioned is important or may contradict the Officer's findings.

- [30] The Applicant notes that the level of democracy and reliability of the rule of law in the state should also affect the Officer's analysis of the available degree of state protection. For this proposition, he cites *Canada (Citizenship and Immigration) v Kadenko*, 1996 CanLII 3981 (FCA) at paragraph 5, which held that the burden of the proof on security for the Applicant is directly proportional to the level of democracy of the state in question. He submits an abundance of cases where courts have affirmed this point, including most recently *Memia v Canada (Citizenship and Immigration)*, 2021 FC 349 at para 20 and *Ahmed v Canada (Citizenship and Immigration)*, 2018 FC 1157, [Ahmed] at paragraphs 55-64. The Applicant suggests that in light of the extremely poor democratic institutions described in the record, the Officer should have considered that he had a lesser burden of proof to establish that he would not receive state protection if Al-Shabaab targeted him in Hiraan.
- [31] The Applicant submits that the Officer "provides no rationale for stating that the Applicant lacked a well-founded objective basis for his claim [i.e. that he would be in danger in Somalia] other than that the UNHCR was conducting voluntary repatriation efforts for 10,000 [people]". The Applicant pleads that this program, which is made of self-selected individuals who lack subjective fear of returning to Somalia, is not sufficient evidence that it is safe for people in general to return, or that Mr. Mohamad does not have a well-founded fear of persecution. He submits that interpreting this program as indicating the general safety of Somalia is inconsistent with the Somalia-Targeted Profiles Report, specifically Section 6. Furthermore, he submits that inferring from this program that Mr. Mohamed is not at risk of persecution if he returns to Somalia shows that the Officer improperly considered his particular risk profile.
- [32] Furthermore, the Applicant argues that the Officer erred in determining that the documentation indicates that the region of Somalia where the Applicant lived is under government control, and therefore he would be safe to return. In addition to submitting that his risk profile means that he is in greater danger than the Officer had assessed, Mr. Mohamed submits that the evidence demonstrates greater risk than what was acknowledged by the Officer, and that "[c]ontrary evidence of a lack of state protection must be cited".
- [33] The Applicant also submits that the Officer's findings about the safety in Somalia are not sufficiently particularized to Mr. Mohamed's region, especially on a forward-looking basis. The Somalia-Targeted Profiles Report states that the "Hiraan region faced massive tensions between clan militias and government security forces" and marks the region as one of mixed or unclear control. The Applicant provides additional evidence about this regional risk by way of the Somalia 2023 Human Rights Report from the United States' Department of State.
- [34] Moreover, as described in the Officer's sources and those of the Applicant, existing support from African Union troops was scheduled for withdrawal from Somalia. The Applicant submits that this has led to a new phase of the conflict. This new phase presents increasing security concerns for Mr. Mohamed which were not appropriately considered by the Officer. He notes that throughout the conflict, the Somali government has relied on both clan

militias and the African Union forces which were previously providing assistance through the AMISOM force, then subsequently through the (smaller) ATMIS force. The Applicant submits that this reduction in forces did not reflect increasing stability, but instead, an unwillingness on the part of foreign states that used to fund assistance, to devote resources to the country. Given that foreign troops were necessary to maintain urban government control, Mr. Mohamed submits that Al-Shabaab is likely to return to attacking urban areas once the African Union troops have withdrawn. Moreover, there are increasing threats from destabilizing regional powers (such as Ethiopia) and the Somali Government's unwillingness to negotiate with Al-Shabaab.

- [35] He submits that the Officer's statement that the government holds Hiraan province is a bold assertion, which (along with the fact that the Officer erroneously described the international security forces assisting the government in 2024 as AMISOM forces, rather than ATMIS forces), reflects the Officer's out-of-date assessment of the security situation.
- [36] Mr. Mohamed therefore submits that he faces increasing risk under a reasonable forward-looking assessment of risk, which he submits should impact the analysis under section 147 of the IRPR. He submits that section 147 includes persons who are "seriously and personally affected by civil war, armed conflict or massive violation of human rights in each of those countries" in the Country of Asylum Class - wording which he argues "clearly captures the current situation in Somalia". The Officer's conclusion that it does not cover the Applicant is, he submits, an error.

B. Respondent's submissions [37] The Respondent submits that the Applicant has not established any error in the Officer's Decision which warrants the Court's intervention. The Respondent has two primary arguments: first the Applicant did not establish a well-founded fear of persecution and did not meet the criteria for either class applied for, and second, the Officer reasonably weighed the evidence.

- [38] The Respondent submits that the Applicant did not establish a well-founded fear of persecution, since he did not address his clan status in his interview or in the application form that was before the Officer. The Respondent submits that it is inappropriate for the Court to consider a new issue (such as Mr. Mohamed's clan status) where the issue could have been raised before the decision maker (citing *Alberta (Information and Privacy Commissioner) v Alberta Teachers' Association*, 2011 SCC 61 at para 23). The respondent further submits that the alleged incidents of persecution occurred randomly, and long in the past, and that the incidents described cannot justify the conclusion that he was personally targeted by Al-Shabaab. Therefore, in the absence of evidence concerning Mr. Mohamed's clan, the Respondent submits it is clear how the Officer arrived at the conclusion that the Applicant is not a member of the Convention Refugee Abroad Class.
- [39] On the Country of Asylum Class, the Respondent pleads that the Officer "weighed the evidence and reasonably found that the Applicant had not met the criteria and explained reasons for that conclusion". The Respondent cites the Officer's notes to support the

statement that “[w]hile the Al-Shabaab are still active in Somalia, the country condition evidence pointed to citizens’ ability to reintegrate into society upon their return”. The Applicant’s profile did not indicate that he was at risk and the Applicant’s disagreement with the Officer’s assessment of his subjective risk is not a ground upon which the application should be granted.

- [40] On the weighing of evidence for the forward-looking risk assessment, the Respondent submits that the Officer made no error in failing to contextualize this risk by taking into account Mr. Mohamed’s Hawadle clan identity, as this was not before them. In light of the randomness of the attacks alleged by Mr. Mohamed, the Officer properly considered the country condition evidence.

V. Analysis A. Preliminary question: is the new evidence admissible? [41] The Respondent claims that the affidavit filed by Mr. Mohamed in support of his application for judicial review contains new allegations that were not before the Officer which should not be considered by this Court. Specifically, the Respondent claims that the Applicant’s evidence about his membership in the Hawadle clan and the Madhweyne-Ise subclan, and the fact that this would be amongst the reasons why he was targeted by Al-Shabaab, should be excluded. The Respondent also indicated that references to other “incidents” not put before the Officer should also be excluded, targeting paragraphs 3 to 17 of the Applicant’s affidavit. These paragraphs contain explanations regarding the conflict in the Beledweyne region but also how the Applicant’s charitable activities with the restaurant made him a target, how he received funds from the diaspora, when and how Al-Shabab threatened him, and why his clan membership matters. For these submissions, the Respondent relies on *Haile v Canada (Citizenship and Immigration)*, 2023 FC 1424 [Haile] at paras 19-21. Although the Respondent made no mention of it in their memorandum, at the hearing, they further indicated that they take issue with the two hundred pages of new country conditions evidence that are attached to the Applicant’s affidavit.

- [42] In response, the Applicant submits the novel argument that since applicants abroad are often not represented by counsel and the form for applicants’ narratives does not allow many details (only a few lines are provided for the narrative in the form), it is incumbent on the officers to proceed to adequate interviews and address all the key points raised by an applicant’s file. Furthermore, given the practice of not providing an exact transcript of the questions asked and the answers provided, it makes it difficult for an applicant to provide the reviewing court with the required details and context without being faced with an objection that the information was supposedly not before the decision maker. The Applicant also submits that the Decision is so short - according to counsel, most decisions regarding asylum claims made abroad are very short and becoming shorter- that it makes it difficult to provide the Court with the required background and context to allow it to understand how unreasonable the Decision is. In sum, the Applicant raises the following question: How can the relevant evidence be put before a decision maker or, in certain cases, how can an applicant prove to the Court that it was, when the process (the short narrative form, the insufficient interview notes, and the practice of issuing very short decisions) prevents an

applicant from providing the required details and context to his situation?

- [43] As concerns the interview, it should be noted that, in his affidavit, the Applicant claims that the Officer's notes from their interview are deficient. For instance, he claims to have explained the death of his brother "in detail", while the Officers' notes indicate only one question related to his brother which was "what was the job of your brother?". Otherwise, the killing of the Applicant's brother seems to have been merely mentioned summarily, without details.
- [44] As the Respondent correctly points out, on judicial review, the Court does not normally consider any element that was not before the administrative decision maker (*Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 [Access Copyright] at paras 19-20).
- [45] This is because, as justice Stratas of the Federal Court of Appeal recalls in *Access Copyright*: "[t]he essential purpose of judicial review is the review of decisions, not the determination, by trial de novo, of questions that were not adequately canvassed in evidence at the tribunal or trial court" (at para 19 citing *Gitxan Treaty Society v Hospital Employees' Union*, 1999 CanLII 7628 (FCA) at pp 144-45; see also *Bernard v Canada (Revenue Agency)*, 2015 FCA 263 [Bernard] at para 17). Hence, in normal circumstances, the Court will intervene to quash and set aside the decision under review only if the administrative decision-maker "has fundamentally misapprehended or failed to account for the evidence before it" (*Vavilov*, 2019 SCC 65 at paras 125-26). These principles apply to immigration matters as they do to other judicial reviews that fall within the jurisdiction of the Federal Court.
- [46] There are recognized exceptions, as provided by the Federal Court of Appeal (see *Access Copyright* at para 20; *Bernard* at para 23 to 25). The relevant details of these exceptions will be discussed further below.
- [47] First, it is necessary to canvass the evidence contained in the Applicant's Record that is allegedly new. On one hand are the affirmations contained in Mr. Mohamed's affidavit that were not before the decision maker. These relate both to 1) the conflict in the Beledweyne region and 2) his clan membership and how it explains Al-Shabaab's attack on him and his brother [New Allegations in the Affidavit]. On the other hand are the documents attached, in bulk, as Exhibit A to this affidavit. These relate to the situation of the conflict in Beledweyne and Somalia more generally [New Country Condition Evidence]. Last, is Exhibit B to the Applicant's Affidavit, which must be further distinguished from the rest of the new evidence as it contains evidently admissible evidence, specifically the two EUAA reports that the Officer referred to in their notes (with hyperlinks), but which are not included in the CTR.

- (1) Exhibit B should have been in the CTR [48] The Officer's notes contain two hyperlinks that are, at the moment of this decision, non-functional. While they trace back to the EUAA's website, they no longer trace back to specific documents. Instead, the website displays a "page not found" error message. However, it is clear from the links that they are for the Somalia-Targeted Profiles Report (from 2021) and the Somalia Security Situation Report (from 2023), which were referred to by the Officer.
- [49] As Justice McHaffie explained in *Brown v Canada (Citizenship and Immigration)*, 2025 FC 1943 at paragraph 41:
- [41] Importantly, however, a hyperlink—whether in the CTR or in a party's materials—does not make the linked document part of the record of this Court on judicial review. Leaving aside obvious concerns about broken links and updated or modified documents, the Court is not responsible for, and is arguably precluded from, seeking out copies of documents from sources beyond the record, including from the NDP issued by the IRB. It is essential for accuracy, efficiency, and fairness that the Court and the parties know precisely the scope and extent of the record on the application for judicial review, including the contents of the documents being relied on. Unless the Court orders otherwise, parties should not treat a document that is merely listed and/or hyperlinked but not reproduced as being part of the record on an application for judicial review.
- [50] The two reports are documents that were clearly consulted by the decision maker, such that they should have been included the CTR. Although this was not raised by the Applicant, the Court submits that this is a failure on the part of IRCC since a broken hyperlink cannot suffice to comply with paragraph 17b) of the Citizenship, Immigration and Refugee Protection Rules (see *Brown* at paras 39-40).
- [51] Furthermore, the failure to include the two reports in the CTR could have constituted a breach of procedural fairness because, had the Applicant not included them in his own record, the Court would have been prevented from being in a position to properly review the Decision. This squarely falls in the third category of deficiencies in the CTR that constitute a breach of procedural fairness, as discussed in *Togtokh v Canada (Citizenship and Immigration)*, 2018 FC 581 [Togtokh] at paragraph 16. Hence, Exhibit B to the Applicant's affidavit is evidently admissible. It does not engage any of the exceptions discussed in *Access Copyright* and *Bernard* as its content was before the decision maker.
- (2) New Country Condition Evidence [52] The Applicant submits as Exhibit A to his Affidavit several documents that purport to provide further details as concern the situation in Somalia. Some of these documents predate the Decision, while others were purportedly introduced into evidence before this Court to give an "update" regarding how the situation in Somalia has evolved since the Decision. This evidence does, for example, show the delayed withdrawal of ATMIS troops and the ongoing insecurity it caused in Somalia, which was projected but not yet observed in the Somalia Security Situation Report. This evidence is relevant for the Court to understand the risk that the Applicant would face if returned to the

country.

- [53] While the Word document titled “2023 human rights report” is inadmissible because its source is not in evidence, the remainder of Exhibit A is admissible under the first exception discussed in Access Copyright at paragraph 20:
- (a) Sometimes this Court will receive an affidavit that provides general background in circumstances where that information might assist it in understanding the issues relevant to the judicial review: see, e.g., *Estate of Corinne Kelley v. Canada*, 2011 FC 1335 at paragraphs 26-27; *Armstrong v. Canada (Attorney General)*, 2005 FC 1013 at paragraphs 39-40; *Chopra v. Canada (Treasury Board)* (1999), 1999 CanLII 8044 (FC), 168 F.T.R. 273 at paragraph 9. Care must be taken to ensure that the affidavit does not go further and provide evidence relevant to the merits of the matter decided by the administrative decision-maker, invading the role of the latter as fact-finder and merits-decider. In this case, the applicants invoke this exception for much of the Juliano affidavit.
- [54] These documents constitute general background information that can assist the Court in understanding both the context in which the Decision inserts itself, and the changing conditions in Somalia. The conditions in that country are changing because most, if not all, of its territory remains an active warzone. This is amply demonstrated by the two reports that the Officer linked to and is a matter of which the Court can take judicial notice. On these points, I adopt the reasoning followed by Justice in *Brown in AB v Canada (Citizenship and Immigration)*, 2025 FC 1514 at paragraphs 40-42 and *Navaratnam v Canada (Citizenship and Immigration)*, 2015 FC 244 at paragraphs 13-16. When the decision maker was tasked with assessing forward-facing risk, judicial review decisions must be based on up-to-date information. Exhibit A to the Applicant’s Affidavit is therefore admissible.
- [55] That being said, the Court is not convinced that these additional documents were necessary to the current application for judicial review, especially given that 1) the Somalia-Targeted Profiles Report and the Somalia Security Situation Report already canvassed the situation at hand in Somalia in detail and were cited by the Officer, and 2) the Applicant pleads that the Officer’s conclusions are directly contradicted by the contents of these two Reports. Therefore, in the present circumstances, these new documents bear no influence on the ultimate outcome of this proceeding.
- (3) New Allegations in the Affidavit [56] The content of the Applicant’s affidavit is admissible.
- (a) Evidence concerning the war in the Applicant’s region [57] First, the evidence concerning the situation of the war in the Applicant’s region is admissible as factual background evidence, for the same reasons as Exhibit A discussed above. Second, this evidence goes specifically to Mr. Mohamed’s argument that the Officer failed to consider up-to-date evidence concerning the conflict in his region.

- [58] Our Court has stated that general country condition evidence is assumed to be before the officers who are tasked to dispose of asylum claims, including those who deal with applications made outside of Canada under the Country of Asylum Class and the Convention Refugees Abroad Class, so they have a duty to consult it (*Ashiq v Canada* (Citizenship and Immigration), 2024 FC 72 [Ashiq] at paras 20-26 citing notably *Saifee v Canada* (Citizenship and Immigration), 2010 FC 589 (for para 28); *Jama v Canada* (Citizenship and Immigration), 2014 FC 668 [Jama] at paras 17-21 and 26). In fact, officers must engage with said evidence and failing to make any factual finding on the country conditions renders a decision unreasonable (see e.g. *Ashiq* at para 26).
- [59] Further, decision makers must rely on the most recent country condition evidence. Relying on outdated evidence can render a decision unreasonable and thereby justify overturning it (*Singh v Canada* (Citizenship and Immigration), 2024 FC 1097 at paras 16-18 [Singh 2024] cited in *Singh v Canada* (Citizenship and Immigration), 2024 FC 1290 at para 16; *Navaratnam v Canada* (Minister of Citizenship and Immigration), 2018 FC 247 at paras 27-29; *Rasalingam v Canada* (Citizenship and Immigration), 2017 FC 718 [Rasalingam] at paras 19-20 and decisions cited therein).
- [60] Therefore, this evidence is clearly admissible under the first Access Copyright exception.
- (b) Evidence concerning clan membership [61] As for the evidence related to the relationship between the attack by Al-Shabaab on Mr. Mohamed's brother/restaurant and his persistent fear of Al-Shabaab, all the essential facts of the attack had been provided to the HCC and were before the Officer. Mr. Mohamed's affidavit before this Court provides additional background information on the influence that his subclan membership had on these interactions, making his fears and the context of his brother's murder even clearer. Even assuming that these details could have been provided in the few lines available in the form, which he contests, he submits that these details are so central to his situation in Somalia that they did not need to be specifically mentioned in his application and should have been considered by the Officer as facts falling within the knowledge that trained immigration officers are expected to have.
- [62] While this portion of the affidavit goes to the merit of the Applicant's claims and would therefore not ordinarily fit into any of the Access Copyright exceptions, the Court is convinced that clan membership was an issue that was de facto before the decision maker, even if it was not expressly discussed in Mr. Mohamed's application.
- [63] First, there are numerous decisions of the Refugee Appeal Division [RAD] of Canada's Immigration and Refugee Board that stand for the proposition that "clan" is central to Somali life and can justify a finding of refugee status. For instance, in *X (Re)*, 2020 CanLII 124008 (CA IRB), the RAD states that "Somali society is divided along clan lines that further divided along major and minor clan lines. [...] Historically, membership denoted a person's occupational caste". In *X (Re)*, 2021 CanLII 144315 (CA IRB), the RAD cited with approval the Refugee Protection Division [RPD] finding "that the Somali clan system shapes the social,

political and economic life; and that clan affiliation is the main identity factor within the Somali nation”. In several cases, the RAD found that membership of a minority subclan (or otherwise being targeted for being a member of a subclan) justified a finding that there was a nexus between the persecution they experienced and their identity. These include X (Re), 2015 CanLII 21299 (CA IRB), (see paras 9-10), X (Re), 2019 CanLII 135174 (CA IRB), (see paras 15-19) and X (Re), 2016 CanLII 152906 (CA IRB).

- [64] Second, and perhaps more importantly, this is clear in the documents that the Officer relied on in the present matter. The word “clan” is used approximately 400 times both in the Somalia-Targeted Profiles Report (from 2021) and in the Somalia Security Situation Report (from 2023) that the Officer linked to in his notes. The 2023 report states that “Somalis mainly identify themselves through their clan identity”. Both reports contain “clan maps” to show which clan is present in which area of the country and describe the role of clans in the country’s security situation in general and the conflict with Al-Shabaab in particular. Regarding the security situation in the Hiraan region in general, and the clans’ importance from a security standpoint more specifically, here is a sample of what the 2023 Report states:

The inter- and intra-clan rivalries. Another major source of conflict that pervades Somali society is constituted by clan rivalries and competitions over political power and scarce resources. The UN Panel of Experts on Somalia, in its October 2021 report, noted an ‘increasing level of armed clan violence closely associated to competition over resources and power struggles’. Somalia’s political and cultural landscape is deeply entrenched in the clan system as well as in racial discriminations. The Somali society is divided into various clan families - (Dir/Isaaq, Darood, Hawiye, Rahanweyn or Digil-Mirifle), each one of them comprising several clans, sub-clans, and sub-sub clans – as well as minority clans, casted communities, and ethnic minorities. Somali clans are distributed across the Somali national territory – as well as beyond it - and represent ‘political-territorial-military’ and ‘identity’ units. Within this context, clans often compete with each other, as well as against other actors such as the FGS or the FMS, for political, resource and territorial control, while resorting to a system of ‘tactical’ clan support and instrumental alliances. (p 21 of the report)

[A]s of August 2022, a joint government - Macawisley militia [i.e. a clan-based militia, instead spelled Ma’awiisley below] military offensive was launched against Al-Shabaab. The military campaign started in Hiraan, at the beginning of that month. Originally it was a targeted operation with the objective to liberate the main supply route between Mataban and Beletweyne. Once Danab forces and local clan militias had successfully pushed-back Al-Shabaab, the operation morphed into a popular uprising. (p 17 of the report)

During the election period that led first to the composition of the House of the People, between November 2021 and April 2022, and then to the Presidential Election on 15 May 2022, Al-Shabaab also targeted civilians associated with the electoral process, including electoral delegates, candidates, government authorities, government officials, and clan elders. Among others, the group resorted to indiscriminate methods, such as improvised explosive devices (IEDs) and suicide attacks, ‘which resulted in a high civilian casualty toll’. Within this context, on 23 March 2022, Al-Shabaab ‘mounted one of its deadliest attack’ in Beledweyne, resulting in 48 deaths and more than 150 casualties, including ‘vocal female parliamentarian Amina Mohamed Abdi’. (p 18 of the report)

The Federal Government of Somalia (FGS), the Federal Member States (FMS), clan militias, as well as other international actors, such as Ethiopia, Kenya, the US, and ATMIS, are all engaged, although in various degrees and forms, in the conflict against the militant al-Qaeda affiliated organisation. (p 21 of the report)

In the reference period, conflict dynamics in Hiraan region included the ongoing confrontation between Al-Shabaab and anti-Al-Shabaab forces, including Ma’awiisley local militia, and armed locals. The Critical Threats Project (CT) reported that the government had fought an offensive against Al-Shabaab since the summer of 2022, after local Hawadle sub-clan militias attacked a base of Al-Shabaab in June 2022, following the killing of one of their clan elders in May 2022. Al-Shabaab reportedly accused the elder of ‘apostasy’ for allegedly participating in the country’s electoral process. Other election-related killings and attacks on government officials included suicide bombings and other attacks in Beletweyne in February, March, May and in October as well as a non-election related attack on the governor of Hiraan in Mataban in July 2022. (p 122 of the report)

At the district level, Beletweyne [the district where Beledweyne sits] recorded the most security incidents (188 incidents), followed by Bulo Burto district (84 incidents) and Jalalaqsi district (16 incidents) between July 2021 and November 2022 (Figure 29). (p 124 of the report)

[65] In light of the above, the Officer ought to have known that clan membership was an issue that was central to Mr. Mohamed’s application for permanent residence and should have considered it.

[66] Furthermore, while an applicant would normally have the opportunity to present evidence in the context of the interview, in the present matter, as more fully detailed hereinafter, the Court is far from convinced that Mr. Mohamed truly had the occasion to present his evidence during his interview. Given the high degree of relevance of his clan identity regarding his personal relationship with Al-Shabaab, and its relationship to the broader

military situation in the area where he lived, it seems strange that this was not addressed during his interview. For instance, given the geographic region concerned and the clear conflicts between clans and Al-Shabaab in that area, the Officer themselves should have identified this as a possible issue and questioned the Applicant on the subject.

- [67] Therefore, the Court finds that the affidavit evidence falls within the exceptions of admissible new evidence set out in *Access Copyright*. Not only it is useful background context but it falls more specifically under the second exception related to “procedural defects that cannot be found in the evidentiary record of the administrative decision-maker” (*Access Copyright* at para 20). This is consistent with precedents where Court has accepted affidavits that speak to what was said at an interview under this exception (see e.g. *Sultani c Canada (Sécurité publique et Protection civile)*, 2026 CF 115 at paras 25-26 [currently available only in French] citing notably *Togtokh* at paragraph 16). That said, even if this new evidence had been considered inadmissible, as more fully detailed hereinafter, the Court would still have found that the Decision is unreasonable.
- (c) The other “incidents” referred to by the Respondent [68] Having reviewed Mr. Mohamed’s affidavit, the Court did not identify references to any other “incidents” not before the decision maker. While Mr. Mohamed’s affidavit provides certain additional details on events described in his narrative or during his interview, the Court is of the view that these are also admissible under the exceptions set out in *Access Copyright*. That said, once again, even if these additional details were excised from the record, it would not impact this Court’s decision. The Officer’s Decision would still be unreasonable.

B. Standard of Review [69] The applicable standard of review is reasonableness. Reasonableness is the presumptive standard of review for the merits of all administrative decisions (*Vavilov* at para 16; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 7), and none of the circumstances warranting a departure from that presumption arise in the present matter (*Society of Composers, Authors and Music Publishers of Canada v Entertainment Software Association*, 2022 SCC 30 at paras 26-28; *Hyder v Canada (Citizenship and Immigration)*, 2024 FC 1687 at para 4).

- [70] As Justice Gascon explained in *Mohammed v Canada (Citizenship and Immigration)*, 2025 FC 1933:
- [14] Where the applicable standard of review is reasonableness, the role of a reviewing court is to examine the reasons given by the administrative decision maker and to determine whether the decision is based on “an internally coherent and rational chain of analysis” and is “justified in relation to the facts and law that constrain the decision maker” (*Pepa* at para 46; *Mason* at para 64; *Vavilov* at para 85). The reviewing court must therefore ask whether the “decision bears the hallmarks of reasonableness—justification, transparency and intelligibility” (*Vavilov* at para 99, citing notably *Dunsmuir v New Brunswick*, 2008 SCC 9 at paras 47, 74).

- [15] Such a review must include a rigorous evaluation of administrative decisions. However, as part of its analysis of the reasonableness of a decision, the reviewing court must take a “reasons first” approach and begin its inquiry by examining the reasons provided with “respectful attention,” seeking to understand the reasoning process followed by the decision maker to arrive at its conclusion (Pepa at paras 46–47; Mason at paras 58, 60; Vavilov at para 84). The reviewing court must adopt an attitude of restraint and intervene “only where it is truly necessary to do so in order to safeguard the legality, rationality and fairness of the administrative process” (Vavilov at para 13).
- [16] The standard of reasonableness is rooted in the principle of judicial restraint and deference, and it requires reviewing courts to show respect for the distinct role that the legislature has chosen to give to administrative decision makers, more particularly on findings of fact and the weighing of evidence (Mason at para 57; Vavilov at paras 13, 24, 46, 75). Absent exceptional circumstances, a reviewing court will not interfere with the factual findings of an administrative decision maker (Vavilov at paras 125–126, citing *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, 2018 SCC 31 at para 55; *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3).
- [17] The onus is on the party challenging the decision to prove that it is unreasonable. Flaws must be more than superficial for the reviewing court to overturn an administrative decision. The court must be satisfied that there are “sufficiently serious shortcomings” (Vavilov at para 100).

C. The law on adequacy of interviews [71] Applicants are not entitled to a complete transcript of their interviews with immigration officers (*Singh v Canada (Citizenship and Immigration)*, 2025 FC 1745 at para 30) and officers are not bound to note down every detail (*Qasim v Canada (Citizenship and Immigration)*, 2020 FC 465 at paras 34–42). In his memorandum, the Applicant argues that the absence of complete notes “is inextricably related to the more serious problem of the Officer’s evident failure to engage” with his entire profile. However, the Court has no means of knowing what was said and what wasn’t. For instance, Mr. Mohamed claims that he described his brother’s murder in detail, but this does not appear in the interview notes. If more was said by Mr. Mohamed, which significantly affected the Officer’s analysis, but which was not recorded, this would constitute a significant procedural fairness issue. It should be noted that the Applicant did not frame this issue as one of procedural fairness. However, if the Officer’s notes do represent a complete and accurate record of their interview with Mr. Mohamed, one could easily conclude that procedural fairness was breached here.

- [72] That said, presuming the Officer’s professionalism, the Court will therefore presume any materials discussed but not recorded by the Officer were considered by the Officer to be irrelevant and that the notes, therefore, constitute a complete and accurate record of the portion of the interview that was found relevant and that formed the basis for the Decision.

- [73] Mr. Mohamed alleges that the questions of the interviewer were insufficient. The Respondent does not address this beyond noting that it is incumbent on the Applicant to make his case (citing *Kore v (Citizenship and Immigration)*, 2019 FC 1120 at para 15; *Qurbani v (Citizenship and Immigration)*, 2009 FC 127 at para 18), and that the Officer conducted two different assessments under each of the two classes claimed.
- [74] The Court is convinced by the Applicant's submission. A review of the interview notes shows that the Officer failed to proceed to a reasonably sufficient interview especially since the Applicant's claim is linked to complex country conditions. Furthermore, the shortness of the narrative included in the form is such that further details would undoubtedly have to be obtained on several points.
- [75] There were relatively few questions asked during the interview about several of the key narrative elements submitted by Mr. Mohamed, such as regarding the murder of his brother, the potential nexus between Al-Shabaab's decision to conduct the assassination at the restaurant, and the Applicant's provision of food aid. This gap is especially notable because, as the Applicant points out, the documents on the security situation in Somalia that the Officer linked to indicate that there is additional risk to individuals providing aid (see, e.g. section 6.4 Treatment of other individuals opposing or perceived as opposing Al-Shabaab of the Somalia-Targeted Profiles Report). Once again, assuming the notes are complete, while the Officer did ask questions about the organization that provided the supplies, their questions focused narrowly on the structure of the organization and its work, rather than broader issues regarding the provision of aid, how such aid/humanitarian work might be perceived by Al-Shabaab and any link to Mr. Mohamed's brother's murder.
- [76] In *Haile*, the court also found that the reasons of the Officer, in conjunction with the sparse record, did not reasonably grapple with the personal circumstances of the Applicant. The Court stated "[w]hile in the refugee context one might expect less extensive reasons from a migration officer than from the RPD or RAD, this case is still an application for refugee protection, which the Respondent is obliged to reasonably assess." In that case, in light of allegations which were not adequately assessed by the Officer, despite accepting that boilerplate language can be used in decisions, the court ultimately granted the application for judicial review (*Haile*, at paras 26-30). The same is true here.

D. The Officer's finding that Mr. Mohamed would be safe in Somalia is unreasonable [77] The Court agrees with the Applicant's submissions that the Officer's findings about his safety should he return to Somalia were unreasonable. The fact that the Officer's Decision does not address key contradictory evidence concerning the safety of the region around Beledweyne, and the likely developments of the security situation in the absence of African Union forces with the end of AMISOM suffices to rebut the presumption that they have considered the evidence before them (see *Cepeda* at para 17). But as explained further below, there is more. Several of the Officer's key conclusion are entirely irreconcilable with the most up-to-date country condition evidence they purportedly relied on, specifically the Somalia Security Situation report (from 2023).

- [78] In the face of clearly contradictory evidence, the absence of explanation from the Officer as to what facts would justify their conclusions, renders the Decision unreasonable. The failure to consider significant pieces of evidence that directly rebutted the presumption of state protection is a deficiency that is sufficient, on its own, to require the Decision be set aside (Sokol at para 30).
- [79] First, the Court notes that, in the Decision, the Officer refers to country conditions which were out-of-date. This appears clear when the Officer stated that support to the Federal Government's own force was being provided by AMISOM, when in fact, the African Union troops present at the time were ATMIS. The Somalia Security Situation Report (from 2023) identifies ATMIS as the African Union force currently in the country -specifically explaining that it is a "reconfiguration" of AMISOM. The Applicant submits that this "adds to the probability that the officer did not review the security situation in Somalia since ATMIS took over from Amisom", a change which occurred in 2022.
- [80] The Officer's affirmation that the Beledweyne region was under government control is also an out-of-date country finding. The most recent map in the evidence the Officer cited clearly showed this area was contested between the Federal Government and Al-Shabaab -which is exactly what the Applicant explained. As explained above, while the Somalia-Targeted Profiles Report (from 2021) contains a map that shows the city of Beledweyne siting in a government-controlled corridor between two areas of "mixed control" by the Federal Government and Al-Shabaab, the Somalia Security Situation Report (from 2023) contains an updated map -which is presented side-by-side with the 2021 map, for comparison. On the latter, Beledweyne is squarely and unmistakably in an area of mixed control.
- [81] Indeed, it seems clear that the Officer either fundamentally misapprehended the 2023 Report or simply failed to consult it and relied on the outdated 2021 report exclusively. Either way, their conclusions cannot be reconciled with the record. Even assuming that reconciliation was possible, they, at the very least, failed to address evidence that directly contradicted their conclusions.
- [82] In *Singh* 2024, Justice Ngo summarized the law regarding the use of outdated country condition evidence in the context of refugee status determination:
- [16] As a starting point, I am cognizant that the RAD should consider the most recent NDP in assessing risks even if that new version only becomes available after the parties' submissions (*Kamara v Canada (Citizenship and Immigration)* 2024 FC 13 [*Kamara*] at para 31, citing *Oymali v Canada (Citizenship and Immigration)*, 2017 FC 889 [*Oymali*] at paras 28-29; see also *Siddique v Canada (Citizenship and Immigration)*, 2022 FC 964 [*Siddique*] at para 21).

- [17] However, jurisprudence holds that it may be reasonable for the RAD to rely on older versions of the NDP unless there is “different, novel and significant” information in the new NDP that was unavailable when the applicants made their argument (Siddique para 21, citing *Zhang v Canada (Citizenship and Immigration)*, 2015 FC 1031 at para 60; see also *Kamara* at para 33).
- [18] In the same vein, a claimant seeking to criticize the RAD for failing to consider new documentary evidence must show that the new information is “sufficiently different, novel and significant and could change the decision” (*Kamara* at para 33; see also *Oymali* at para 29). I must consider these factors in assessing the RAD’s use of an older version of the NDP.
- [83] Although the jurisprudence cited deals with the Immigration and Refugee Board (specifically the RAD), there is no reason to conclude that these jurisprudential guidelines do not apply to officers who conduct the same type of analysis for refugee claims made outside of Canada. Our Court has also faulted decision makers from the Canadian Border Services Agency who rely on out-of-date evidence in the context of Pre-Removal Risk Assessments (see *Rasalingam* at para 20). In the case at bar, it is manifestly clear that the Officer relied on outdated country condition evidence when the new information found in the updated Report they explicitly linked was novel and significant to the point where it rendered some of their key conclusions moot. The volatility of the situation in Somalia is abundantly discussed in the evidence that was before them so that it should have been obvious that relying on a document from 2021, which was several years old by the time of the Decision, could lead to errors. In fact, in its “disclaimer”, the EUAA writes that although the 2021 Report was finalized on August 20, 2021, its “reference period” ranges from January 2020 to June 30, 2021, and therefore any events after that date are unaccounted for.
- [84] Furthermore, the Court finds that the Officer’s chain of reasoning is flawed in other regards. For instance, the Court agrees with the Applicant that simply because it is safe for some individuals who participate in the voluntary repatriation program of UNHCR and who lack a subjective fear of attack to return to Somalia, does not mean that it is safe for an individual who has been targeted by Al-Shabaab to do so.
- [85] Similarly, in relying on the existence of this repatriation program to justify the conclusion that the region around Beledweyne is safe for the Applicant to return, without addressing the contradictory evidence, the Officer illogically concluded that because it is safe for some individuals to return to some parts of Somalia, it is safe for Mr. Mohamed to go back to his specific region. The logical leap, as to why or how one conclusion could lead to the other, is not explained. Per *Vavilov* at paragraph 96, where decisions are based on an unreasonable chain of analysis or contain a fundamental gap, the reviewing court cannot disregard or supplement the flawed reasoning. It must set them aside.

E. The Officer’s finding that Mr. Mohamed was an ordinary civilian, not subject to targeting, is unreasonable [86] The Court does not agree with the Respondent that the Officer’s finding that Mr. Mohamed should be considered an ordinary civilian was reasonable. As the Applicant states,

while the decision maker is not required to address all the evidence submitted, failure to address key points of evidence may indicate that the Officer failed to consider the evidence (see e.g. Hooper at paras 21-22 citing Cepeda at para 17). The analysis underpinning the Officer's conclusion seems to fail to consider several key points of evidence, which constitutes a reviewable error per Vavilov (at para 126).

- [87] Further, the jurisprudence cited by the Applicant confirms decision makers must consider all grounds which might justify a finding of refugee status which can be identified from the evidence, even those not pled by claimants. For example, in *Mmono*, there was evidence of HIV status which the board considered only in the context of demonstrating the abuse alleged, instead of considering how HIV status would affect the Applicant's conditions in Botswana. In *Adan*, the failure to consider that the applicant was a member of a marginalized clan in Somalia was found to render the decision unreasonable. As stated by the Supreme Court of Canada, in *Canada (Attorney General) v Ward*, 1993 CanLII 105 (SCC), [1993] 2 SCR 689 (at p 745), this obligation flows from paragraphs 66 and 67 of the UNHCR's Handbook on Procedure and Criteria for Determining Refugee Status, which states that it is not the duty of a claimant to identify the reasons for their persecution (see also *Ingabire v Canada (Citoyenneté et Immigration)*, 2025 CF 1545 at para 46 [currently only available in French], citing *Singh v Canada (Citizenship and Immigration)*, 2024 FC 1020 at paras 10-12, *Allanah v Canada (Citizenship and Immigration)*, 2023 FC 408 at para 44 citing *Dezameau v Canada (Citoyenneté et Immigration)*, 2010 CF 559 at para 18 [currently only available in French]; *Aleaf v Canada (Citoyenneté et Immigration)*, 2015 CF 445 at para 37 and *Ortiz Ortiz v Canada (Citoyenneté et Immigration)*, 2022 CF 1066 at para 16; see also *Jama* at paras 18). That this obligation applies in the context of applications made abroad under the Country of Asylum Class and Convention Refugee Abroad Class is clear from *Barak v Canada (Citizenship and Immigration)*, 2017 FC 648 (at paras 10-13).
- [88] While Mr. Mohamed is not wealthy, and his initial encounters with Al-Shabaab were apparently random, as noted by the Officer, he did provide evidence that he was the sort of person who would be targeted by them, as well as evidence of the fact that he was actually targeted by them. His affidavit before this Court also provides additional context that supports the evidence he had initially provided in his application and interview. He clearly explained that he received money and merchandise from members of the Somali diaspora (which he later specified to be members of his subclan) to run the restaurant he owned and used these to feed the poor and the orphans. Furthermore, the unchallenged evidence provided to the Court, most notably section 6.4 of the Somalia-Targeted Profiles Report, linked to by the Officer, emphasizes that individuals engaging in humanitarian work can be threatened and targeted.
- [89] While the Officer's questions about whether this charitable work was related to a structured NGO may reflect their awareness that NGO employees would be targeted, their lack of reference to Mr. Mohamed's charitable work and the conclusion that Mr. Mohamed was an "ordinary civilian" in the Decision appear unreasonable. If the Officer considered that

because Mr. Mohamed was only part of an “unorganized” group, and not an NGO per se, he did not risk being targeted despite his charitable work, then the Officer should have explained this more clearly in the Decision, especially since it appears to contradict the country evidence cited by the Officer.

- [90] In fact, the Officer’s finding fails to address several other key pieces of evidence available to him at the time. First, as stated in section 6.4 of the Somalia-Targeted Profiles Report, a person who is engaging in humanitarian work without being employed by an NGO may still be construed as an enemy of Al-Shabaab, and therefore can be targeted. A person can also be targeted by Al-Shabaab for defending their property and refusing to pay extortion fees to Al-Shabaab. Mr. Mohamed’s evidence about his brother’s murder at the restaurant, the repeated calls to his mother by Al-Shabaab members, and the fact that he was targeted because he refused their orders to pay them, all support the inference that he was in fact targeted because of this humanitarian work and because he defended his property.
- [91] It is, of course, not the role of the Court to set aside a Decision on the grounds that it prefers its own understanding of the evidence to those of the decision maker (Vavilov at para 91). The Court cannot reweigh and reassess the evidence considered by the decision maker (Vavilov at para 125). However, while a decision maker is entitled to prefer some pieces of evidence over others, the failure to address relevant contrary evidence in the decision may rebut the presumption that the decision maker considered all the relevant evidence (see Cepeda at para 17). Therefore, since in this case none of these key events are addressed in the Decision, the Court concludes that the Officer failed to properly assess and consider all the relevant evidence before them when they analyzed Mr. Mohamed’s profile. This renders the Decision unreasonable as it is not justified in light of the facts, and the conclusions do not appear to be based on the evidence actually before the Officer (Vavilov at para 126).
- [92] Furthermore, as above-mentioned, the Court agrees with the Applicant that the Officer’s interview was insufficiently detailed on the subject of clan affiliation, since i) clan affiliation in that region is generally a factor, ii) clan relationships were indirectly referenced in the interview (regarding the connection between the diaspora members and Mr. Mohamed, which the Officer did briefly enquire about) and iii) the Officer’s materials indicate that clan identity may result in targeting by Al-Shabaab. Moreover, and even if the interview had been sufficient, the Officer was required to consider all grounds for status, even when not expressly submitted by the Applicant (see for example Adan, and Mmono). Therefore, the fact that the Officer did not, on his own accord, consider if clan affiliation could expose Mr. Mohamed to specific risks renders his conclusions about Mr. Mohamed’s risk profile unreasonable.
- [93] Lastly, and even though this was not specifically raised by the Applicant, the Court adds that the Officer’s findings concerning future risks from Mr. Mohamed’s humanitarian activities were also unreasonable. In the Decision, the Officer found that “the restaurant was targeted for receiving money from the diaspora and the applicant is not involved with any of those elements anymore.” To the extent that Mr. Mohamed was attacked because he was engaging

in humanitarian work which Al-Shabaab interpreted as making him an agent of their enemies, parallels can be made with the findings of the court in Pimental. “[T]he law does not require a victim of politically motivated persecution to necessarily abandon his commitment to political activism in order to live safely in a country like Venezuela” [citation omitted] (Pimental, at para 14). This principle has been cited and applied by the Federal Court several times (see e.g. Gomez Guzman v Canada (Citizenship and Immigration), 2022 FC 152 at paras 39 and 45-46; Weldemariam v Canada (Citizenship and Immigration), 2025 FC 1065 at para 11). While there is no evidence that Mr. Mohamed is currently engaging in humanitarian work, if he were to return to Somalia, he may be approached to or independently wish to continue feeding the poor. In the context of the violent and targeted persecution of aid workers by a political entity (Al-Shabaab), such a decision would reflect a political opinion, and he would be entitled to do so. The Officer’s conclusions about his safety based on the presumption he will give up his affiliation with humanitarian work is therefore unreasonable.

VI. Conclusion – The Decision is unreasonable [94] When examined in the context of the evidence that was before the decision maker, the Decision is unreasonable. It is insufficiently justified. The brief reasons do not address key elements of the record and rely on specific interpretations of events which, while sometimes plausible in themselves, do not provide a clear logical justification for the Officer’s ultimate findings. In other regards, the Decision is simply irreconcilable with the record. Although the Officer cited updated reports, they seem to have relied on outdated country condition evidence.

[95] The repeated failure to address relevant -and sometimes even crucial-contradictory evidence leads to the conclusion that the Decision was not made in light of the evidence before the Officer, that they failed to account for the evidence before them or fundamentally misapprehended key evidence.

[96] Given the foregoing, the application for judicial review is granted and the matter is returned to the HCC for redetermination by a different officer.

JUDGMENT in IMM-1325-25

THIS COURT’S JUDGMENT is that:

The application for judicial review is granted, and the matter is returned to the HCC for redetermination.

No question of general importance is certified.

“Danielle Ferron”

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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