

Federal Court



Cour fédérale

**Date: 20261001**

**Docket: IMM-19010-24**

**Citation: 2026 FC 1214**

**Ottawa, Ontario, October 1, 2026**

**PRESENT: Mr. Justice Pentney**

**BETWEEN:**

**MUBAREK MULAT BEYENE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**REASONS AND JUDGMENT**

[1] The Applicant, Mubarek Mulat Beyene, seeks judicial review of the decision of an Immigration Officer (the Officer) refusing his application for permanent residence as a member of the Convention Refugees Abroad class, or as a member of the Humanitarian-Protected Persons Abroad class.

[2] The Officer found that the Applicant's evidence was not credible and therefore denied the application. The Applicant argues that he was denied procedural fairness because the Officer made a finding on identity and relied on extrinsic evidence without giving him notice or the chance to respond to these issues. He also submits that the decision is unreasonable because the Officer erred in their credibility assessment and failed to consider whether he was at risk based on country condition evidence.

[3] As explained below, I do not find it necessary to address all of the questions raised by the Applicant, because I find he was denied procedural fairness. The primary basis for the Officer's negative credibility finding was that the Applicant's description of his immediate family did not match the list contained in his brother's refugee claim. There is no evidence that the Applicant possessed a copy of his brother's refugee documents, and he was not given any clear indication of the differences between the two listings of immediate family members. This was unfair.

[4] Because I find there was a denial of procedural fairness, the decision will be quashed and the matter remitted for reconsideration by a different Officer.

#### I. Background

[5] The Applicant is a citizen of Ethiopia. He fled to Uganda in 2021, where he was living as a refugee at the time of his application. In 2021, the Applicant commenced an application for permanent residence as a member of the Convention refugee abroad class or humanitarian-protected person abroad class.

[6] The Applicant applied as a sponsored refugee. He submitted a resettlement plan prepared by a Sponsorship Agreement Holder , the Calgary Ethiopian Community Association. His co-sponsor was to be Ebrahim Mulat, a permanent resident of Canada whom the Applicant claimed was his brother.

[7] The Applicant alleges in his Schedule 2 narrative that he was forced to flee Ethiopia due to ethnic violence and genocidal massacres. He says he was a shop owner and became a victim of the massacres in January 2021 when men came to his village, burned his shop and tried to kill him. He says he escaped into the jungle, but that many others in the village were murdered. He fled and crossed the border to Kenya, and then to Uganda in May 2021.

[8] The Applicant was interviewed on April 30, 2024. Concerns were raised about the quality of the interpretation after the interview, and the Applicant was interviewed a second time on June 7, 2024.

[9] The application was refused on September 24, 2024. The Global Case Management System notes reveal that the Officer had concerns about credibility. Specifically, the Officer was concerned because the siblings listed on the Applicant's form were different from those listed on his brother's refugee claim form. In addition, the Officer pointed out that the Applicant claimed to have no knowledge of why his brother claimed refugee status in Canada – this caused the Officer to question his credibility. Based on these issues, the Officer was not sure the Applicant was really who he claimed to be.

[10] The details giving rise to the Officer's credibility concerns can be inferred from the interview notes, although the notes are not entirely clear. During the interview, the Officer pointed out that the Applicant's brother in Canada (who was one of his sponsors) did not list him as a sibling on his forms, nor did the Applicant list his brother on his application forms. The Applicant was not able to provide a satisfactory explanation for these differences. First, he said that the person who filled out his form may have made a mistake. Then, he said his brother has a lot of siblings, but the Officer pointed out that they have the same mother and father, and the Applicant confirmed that was true. The Applicant then stated that he has more siblings than the ones listed in his form. He said he has eight brothers and three sisters. Earlier in the interview, he seemed to say he has three brothers and two sisters. On his forms, he appears to have only listed two sisters and two brothers.

[11] Based on these discrepancies, the Officer made the following finding: "I conclude on balance that the [Applicant] has not been telling the truth in the processed(sic) contrary to article A16(1) and therefore I am not satisfied that the [Applicant] meets the definition of refugee under the convention or of the country asylum class." The application for permanent residence was therefore denied.

[12] The Applicant seeks judicial review of this decision.

## II. Issues and Standard of Review

[13] The Applicant raises two issues in this case:

A. Was the Applicant denied procedural fairness?

B. Is the decision reasonable?

[14] The first question is to be examined on a standard resembling correctness ( *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 (*Canadian Pacific*) at para 55; see also *Heiltsuk Horizon Maritime Services Ltd v Atlantic Towing Limited*, 2021 FCA 26 at para 107). Under this approach, a reviewing Court is required to assess whether the decision-making process was fair in all of the circumstances, “with a sharp focus on the nature of the substantive rights involved and the consequences for an individual...” (*Canadian Pacific* at para 54). The ultimate question is “whether the applicant knew the case to meet and had a full and fair chance to respond” (*Canadian Pacific* at para 56). .

[15] The second question is assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*], and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 [*Mason*].

[16] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85; *Mason* at para 8). The onus is on the Applicant to demonstrate that “any shortcomings or flaws ... are sufficiently central or significant to render the decision unreasonable” (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must not interfere with the decision-maker’s factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

III. Analysis

A. *The Applicant was denied procedural fairness*

[17] The Applicant claims he was denied procedural fairness for two reasons: the Officer made a finding about his identity without raising this with him; and the officer's negative credibility finding rests on the difference between the Applicant's forms and those of his brother, but the Applicant was never provided the opportunity to know exactly what was in his brother's forms.

[18] I am not persuaded by the Applicant's first ground, because the notes clearly show that the Officer raised the identity issue with the Applicant:

I will give you a procedural fairness procedure. In that procedure, I will explain my preoccupation is with the file. I will give you a chance to address them.

- The fact that your brother didn't list you on his file and that you don't have the same list of siblings raises concerns as to who you are.

(emphasis added)

[19] The Applicant's response to this question was that the person who filled out his forms may have made a mistake. Then, he stated that his brother has a lot of siblings. When the Officer pointed out that he has the same parents as his brother, the Applicant agreed and said that he has more brothers than what he previously told the Officer.

[20] This line of questioning made it clear to the Applicant that his identity was in question, and his attempt to answer the Officer's question demonstrates that he understood this point. There was no denial of procedural fairness on this ground.

[21] The second ground is that the Applicant was treated unfairly because the Officer's credibility finding rests on the difference between the listing of siblings on his forms and those his brother submitted when he claimed refugee status in Canada. He submits that the Officer could not rely on such extrinsic evidence without giving him notice and the opportunity to respond. The Applicant states that he was not made aware of which siblings were on his brother's form, and he could not be expected to explain why his brother may have provided a different list than he did. The Officer did not provide a procedural fairness letter (PFL) to give the Applicant the opportunity to respond to this concern.

[22] The Respondent submits that procedural fairness does not require that an applicant be given access to all documents that an Officer relied upon. The Officer raised their specific concerns in the Applicant's interview, and thus the Applicant knew the case to be met. Despite being presented with the Officer's concerns during the interview, the Applicant failed to provide sufficient information to answer the questions. On this view, according to the Respondent, there was no denial of procedural fairness.

[23] As stated in *Vavilov* at paragraph 77, "[t]he duty of procedural fairness in administrative law is 'eminently variable', inherently flexible and context-specific..." and must be assessed with reference to the non-exhaustive list of factors set out in *Baker v. Canada (Minister of*

*Citizenship and Immigration*), 1999 CanLII 699 (SCC), [1999] 2 S.C.R. 817, at paras 22-23 [Baker]. In this case, there is no doubt that the duty of procedural fairness falls at the high end of the spectrum, since the Officer was required to determine whether the Applicant met the definition of Convention refugee or was otherwise in need of protection (*Darwishes v Canada (Citizenship and Immigration)*, 2024 FC 98 at para 15; *Ha v Canada (Minister of Citizenship and Immigration)*, 2004 FCA 49 at para 61; *Baker* at para 25).

[24] The Applicant says that it was unfair for the Officer to make a negative credibility finding exclusively or largely because of the differences between his forms and his brother's. During the interview, the Officer questioned the Applicant about this discrepancy at some length; the notes also show the following exchange:

I will give you a procedural fairness procedure. In that procedure, I will explain my preoccupation is with the file. I will give you a chance to address them.

- The fact that your brother didn't list you on his file and that you don't have the same list of siblings raises concerns as to who you are

R: The guy that filled my form may have make a mistake

Q: But why didn't your brother mention you and why

R: Yes, he has a lot of siblings

Q: But you have the same parents

R: Yes, same mother and same father

Q: Why do you list different family members?

R: I have more brothers but I told you what was in the form

Q: But that was not my question, I asked the number of siblings you have

R: I was telling you what was on my form, not the number of people that was on the form

Q: So how many brothers and sisters do you have

R: I have 8 brothers and 3 sisters

[25] The Officer's summary of their findings shows how central the concern about the different listing of family members was to the overall decision:

I reviewed the interview and the PA's declaration on the form. I have serious concerns when it comes to the PA's credibility. The information that I could counter verified on his forms: his family composition is completely different than the one from his siblings. I also note that the PA declares no knowledge of his brother's claim which put doubts on his overall credibility. At this point, I am not sure if the PA really is who he says he is.

...

The fact that the list of sibling of the PA and his brother in Canada are so different and that the PA is otherwise not credible leads me to question all the declarations made by the PA. Based on this, I conclude on balance that the PA has not been telling the truth in this processed contrary to article A16(1) and therefore I am not satisfied that the meets the definition of refugee under the convention or of the country asylum class.

[26] The Officer never explains the basis for the finding that "the [Applicant] is not otherwise credible...", and without further details that finding cannot outweigh the importance of the discrepancy in the listing of siblings in the Applicant's forms as compared with his brother's. The interview notes show that the Applicant stated he was not aware of the basis of his brother's refugee claim. He said that his brother had not shared details about why he had been arrested, explaining : "he told me it is not good for your mind [to know the details]." On the record, there is no indication that the Applicant was somehow aware of the details of his brother's forms.

[27] The notes also reveal some misunderstandings regarding the Applicant's listing of his siblings; his responses appear to reveal a lack of understanding of what he was being asked. At one point he says that his statement that he had three siblings referred to the number listed in his form rather than the actual number of brothers and sisters. When being questioned about his siblings, at one point the Applicant stated, "I thought that only brother", and the notes state that the Officer "confirm[ed] with the interpreter that it could be a translation issue due to the word

used”. Later, as indicated in the extract cited above, the Applicant stated, “I have more brothers but I told you what was in the form.”

[28] Eventually, the Applicant clarified that he had eight brothers and three sisters. There is no evidence in the record as to whether this matches the number in his brother’s forms, and the Officer did not either ask the Applicant to name all his siblings or explain which siblings were listed in the brother’s form. The Officer said he was giving a procedural fairness process during the interview, but the question is whether the information he provided was sufficiently clear to allow the Applicant to know the case he had to meet.

[29] There is no doubt that the Applicant’s evidence on his siblings and his changing explanation for the incomplete list in his form were confusing. However, the Officer’s decision on the Applicant’s credibility did not turn on these problems in his evidence. Rather, the Officer’s notes made it clear that the concern was about the difference between the listing of family members in the Applicant’s forms and his brother’s. However, by this point in the interview, the Officer knew that the Applicant did not know much about his brother’s arrest or the basis for his refugee claim. There was no evidence indicating that the Applicant would know what was in his brother’s forms, or why his brother had not listed him (and apparently some other siblings) in his form.

[30] The Officer’s comparison of the Applicant’s form with his brother’s introduces extrinsic evidence into the Officer’s analysis. Despite this, the Officer did not give the Applicant a copy of the brother’s form, nor did he explain the specific differences between the two lists. Moreover,

the Officer did not provide a PFL detailing the specific differences between the two forms. The Applicant had not been warned in advance of this concern, although the Officer clearly went into the interview in possession of the Applicant's forms and his brother's. Given the stringent duty of procedural fairness that applies, and the particular circumstances the Applicant faced given the context for the interview, I find that there was a denial of procedural fairness.

[31] This case is similar to *Kilerjian v. Canada (Citizenship and Immigration)*, 2024 FC 1281 [Kilerjian], in which Madam Justice Tsimberis found the Officer's reliance on undisclosed country condition evidence to be unfair. Like this case, the Officer in *Kilerjian* questioned the claimant about information that was in the Officer's possession but had not been provided to the Applicant. Like this case, the Officer was not satisfied with the claimant's answers. Finally, like this case, the Officer did not send the claimant a PFL following the interview to give them a chance to fully respond to the concerns.

[32] Justice Tsimberis found the procedure to have been unfair as explained at paragraph 21:

It was procedurally unfair for the Officer to challenge the Applicant during the interview on an issue that did not directly arise from the Applicant's application materials but from the Officer's own experience without providing notice of said concern through a procedural fairness letter at some point in the administrative process (either before or after the interview). Had the Officer sent a procedural fairness letter to the Applicant after his interview, it would have put the Applicant on notice with their concern of a durable solution in Armenia, and would have communicated the open source and other documents supporting the Officer's position regarding the Applicant's access to citizenship in Armenia based on their ethnic Armenian origin. This would have provided the Applicant with the opportunity, post interview, to consider the Officer's concerns and documentation and provide their submissions. Had the Officer sent such a procedural letter after the interview and given the Applicant sufficient time to

respond thereto, my conclusion would have been, like Justice McVeigh in *Shahbazian*, that the hearing would have been procedurally fair. This not being the case in the circumstances before me, the Applicant was denied their right to procedural fairness.

(citing *Shahbazian v. Canada (Citizenship and Immigration)*, 2020 FC 680)

[33] I adopt this reasoning as my own, because it corresponds quite closely to the situation here. The Officer did not provide sufficient details to the Applicant about what was in his brother's form to allow him to respond, but more importantly the Officer never provided the Applicant with the chance to contact his brother to obtain information about who was listed in his forms and why some siblings may have been left out. That was not fair.

[34] Because I have found the procedure to have been unfair, it is not necessary for me to address the other issues raised by the Applicant. It is sufficient for me to note my concerns regarding two elements of the Officer's reasoning. First, as noted earlier, the Officer found the Applicant to be "otherwise not credible" but never explained why. That is not sufficient. Credibility findings must be stated clearly and the basis for them explained in sufficient detail to allow the Applicant and a reviewing court to understand them: *Sitnikova v. Canada (Citizenship and Immigration)*, 2017 FC 1082 at para. 20; *Vavilov* at para 81; *Oranye v Canada (Minister of Citizenship and Immigration)*, 2018 FC 390 at para 27; *Zaytoun v. Canada (Citizenship and Immigration)*, 2014 FC 939.

[35] Second, during the procedural fairness part of the interview, the Officer stated to the Applicant "You are not saying important event that you did list in the form. Event after I prompted you multiple times asking if anything else happens." (*sic* throughout). It is not clear

what “important event” the Officer is referring to, and this also falls short of providing sufficient details to allow the Applicant to know the case he had to meet.

[36] For the reasons set out above, the application for judicial review will be granted. The matter will be remitted back for reconsideration by a different Officer.

[37] There is no question of general importance for certification.

**JUDGMENT in IMM-19010-24**

**THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is granted.
2. The matter is remitted back for reconsideration by a different Officer.
3. There is no question of general importance for certification.

"William F. Pentney"

Judge

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

**DOCKET:** IMM-19010-24

**STYLE OF CAUSE:** MUBAREK MULAT BEYENE v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** CALGARY, ALBERTA - HYBRID

**DATE OF HEARING:** MARCH 3, 2026

**REASONS AND JUDGMENT:** PENTNEY J.

**DATED:** OCTOBER 1, 2026

**APPEARANCES:**

|                   |                    |
|-------------------|--------------------|
| Faraz Bawa        | FOR THE APPLICANT  |
| Alexander Brooker | FOR THE RESPONDENT |

**SOLICITORS OF RECORD:**

|                                                                          |                    |
|--------------------------------------------------------------------------|--------------------|
| Stewart Sharma Harsanyi<br>Barristers and Solicitors<br>Calgary, Alberta | FOR THE APPLICANT  |
| Attorney General of Canada<br>Edmonton, Alberta                          | FOR THE RESPONDENT |