## CITIZENSHIP AND IMMIGRATION

### STATUS IN CANADA

### *Permanent Residents*

Judicial review of decision by immigration officer dismissing applicant's application for permanent residence on grounds of inadmissibility pursuant to *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 34(1)(d) — Officer finding reasonable grounds to believe that applicant, citizen of Iran, assisting with Iran's development of weapons of mass destruction — Applicant submitting, *inter alia*, that officer not providing him an oral hearing, relying on information of which applicant unaware, failing to conduct proper analysis of evidence — Issues whether officer treating applicant unfairly, whether officer's conclusion unreasonable — Officer failing to treat applicant fairly — Making adverse credibility findings which should have been made only after oral hearing, not on basis of written submissions alone — Concerns set out in National Security Screening Division report, including opinion applicant may be Iranian intelligence officer acting on behalf of the Iranian Ministry of Intelligence and Security, never disclosed to applicant — Providing vague reference to applicant's possible inadmissibility on security grounds insufficient to satisfy officer's duty of fairness — Applicant entitled to know allegations against him, evidence relied on to support those allegations — While conclusion on issue of fairness sufficient to dispose of present application, officer's conclusion with respect to permanent residence application also addressed — Officer's conclusion unreasonable — Officer applying standard similar to the one articulated in *Ezokola v. Canada (Citizenship and Immigration),* 2013 SCC 40, [2013] 2 S.C.R. 678, i.e. a person cannot be considered to have committed a serious crime without evidence that they made a knowing and significant contribution to that crime — Fact that Act, s. 34(1)(d) permitting finding of inadmissibility for person "being a danger to the security of Canada" not meaning that person is inadmissible without evidence they have done something, or might do something, that supports conclusion on dangerousness — However, precise reasoning in *Ezokola* may not apply here — *Ezokola* not suggesting that definition of complicity it set out should be incorporated into concept of "member" in s. 34(1)(f). — Supreme Court's concern that individuals should not be found complicit in wrongful conduct based merely on their association with group engaged in international crimes may extend to inadmissibility, generally, and to definition of membership specifically — Effects of *Ezokola* can be felt outside sphere of the exclusion clauses in which it arose — Here, officer appearing to accept that finding under s. 34(1)(d) requiring evidence of knowledge, contribution — However, no evidence before officer supporting conclusion that applicant had "significantly and knowingly" assisted his employers in advancing Iran's weapons program — Clear that officer satisfied that applicant guilty by association — Nothing in record supporting officer's finding that applicant made significant, knowing contribution to Iran's weapons program — Application allowed.

HOSSEINI V. CANADA (IMMIGRATION, REFUGEES AND CITIZENSHIP) (IMM-4640-16, 2018 FC 171, O'Reilly J., judgment dated February 14, 2018, 18 pp.)