IMM-5363-00

2001 FCT 828

Damir Zdjelar, Sanja Gredelj & **Natasa Zdjelar** (*Applicants*)

v.

The Minister of Citizenship and Immigration (*Respondent*)

INDEXED AS: ZDJELAR V. CANADA (MINISTER OF CITIZENSHIP AND IMMIGRATION) (T.D.)
Trial Division, Gibson J.—Toronto, July 18; Ottawa, July 26, 2001.

Citizenship and Immigration — Status in Canada — Convention refugees — Judicial review of CRDD decision male applicant excluded from consideration as refugee by United Nations Convention Relating to Status of Refugees Art. 1F(a) — Adult applicants citizens of Croatia of Serbian nationality — CRDD finding testimony "misleading and confusing" — Concluding applicant in paramilitary group notorious for committing war crimes — Alternatively finding applicants not Convention refugees by reason of changed country conditions — Onus regarding exclusion on Minister — By withdrawing from case after reviewing evidence, Minister's representative apparently abandoning concern — CRDD on own initiative questioning reliability of document from "military authorities" — Reviewable error to engage to substantial degree in speculation to find against male applicant — Yusuf v. Canada (MEI) (1995), 179 N.R. 11 (F.C.A.) not constituting direction not to weigh meaningfulness, effectiveness, durability of evidence of change of country conditions — CRDD erred by not engaging in effective weighing of evidence for, against changed country conditions.

This was an application for judicial review of a Convention Refugee Determination Division (CRDD) decision that the applicants were not Convention refugees. The adult applicants were citizens of Croatia of Serbian nationality. They are the parents of the minor applicant who was born in the Federal Republic of Yugoslavia (FRY). The applicants alleged a well-founded fear of persecution if required to return to either Croatia or FRY by reason of their religion and nationality. In 1991 the male applicant was living in Serbian Krajina, close to where violence erupted when Croatia declared secession from FRY. He was recruited into the Territorial Defence Forces of the Yugoslav National Army (JNA) and alleged that his service was restricted to performance of the duties of an auto mechanic, and that he received no military training and did not attain any rank. The war officially ended in January 1992, but hostilities did not cease. He unsuccessfully tried to flee in 1993. In 1995 the Croatian Army forcibly removed the entire population of Serbian Krajina from Croatia. On arriving in FRY the applicants were given refugee status, with no right to obtain citizenship, work or vote. In 1998 the FRY government started a repatriation policy to facilitate the return of refugees to Croatia. The applicants feared for their safety, and the male applicant feared recruitment into the FRY Army in light of the intensifying military activities in Kosovo. He fled to Canada, followed by his wife and child. After reviewing the documentary and oral evidence, the Minister's representative withdrew from the case being of the view that the evidence did not satisfy the six criteria set out by the Federal Court of Appeal in *Ramirez v. (Minister of Employment and Immigration)*. The CRDD found that the principal applicant was excluded from consideration for Convention refugee status under Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees*, which provides that the Convention does not apply to any person with respect to whom there are serious reasons for considering that he has committed a war crime or a crime against humanity. It found that his testimony as to his military activities had been "misleading and confusing" and concluded that he had been in a paramilitary group which is notorious for committing war crimes and crimes against humanity. Alternatively, it found that all of the applicants were not Convention refugees by reason of

changed country conditions, noting that Serbs in Croatia face systematic discrimination but that the situation was “especially promising” given the election of the new president. As to Serbia, it stated that the applicants had been given passports and that there was no evidence that they had been denied basic human rights because of not having citizenship in that country.

Held, the application should be allowed.

The onus regarding exclusion was on the Minister, who appeared to have abandoned her concern in this regard. By deciding to withdraw, the Minister’s representative determined that there was insufficient evidence implicating the applicant to warrant continuing to pursue the exclusion issue. Although counsel for the Minister expressed no concerns regarding the validity of the document presented by the male applicant from “military authorities”, the CRDD, on its own initiative, decided to question the reliability of the document and further cast doubt on the male applicant’s testimony regarding his military service, which it found to be evasive, before concluding that he was excluded from Convention refugee status. By engaging to a substantial degree in speculation to find against the male applicant, the CRDD committed a reviewable error.

It also erred in finding that the applicants did not have a well-founded fear of persecution in their country of origin or FRY by reason of changed country conditions. *Yusuf v. Canada (Minister of Employment and Immigration)* does not constitute a direction not to weigh the meaningfulness, effectiveness and durability of the evidence of change in the presence of evidence to the contrary. While there was evidence to support the CRDD’s finding that the applicants would not be at risk of persecution if returned to FRY or to Croatia, there was certainly evidence before the CRDD to the contrary. The CRDD did not engage in an effective weighing of the evidence for and against changed country conditions. It wrote of an “especially promising” situation in Croatia without giving appropriate weight to the history of instability in the geographic region in question, and the regularly recurring disappointment when “especially promising” elements fail to mature into ethnic harmony. Conditions for Serbs in Croatia were not, on the evidence before the CRDD, favourably stabilized at the time of the CRDD’s decision. The applicants were entitled to something more than a “special promise” before being asked to return to “take their chances again”.

The CRDD’s comment that the applicants had “been issued passports” was either wrong or out of context. The evidence before the CRDD was that the applicants held Croatian passports under the auspices of the United Nations, and did not have passports from the FRY. They were refugees in FRY, and restrictions on their rights continued. The very question of whether they could be returned to FRY was in doubt in view of the facts that they neither held passports from nor were citizens of that country.

STATUTES AND REGULATIONS JUDICIALLY CONSIDERED

Immigration Act, R.S.C., 1985, c. I-2, s. 2(1) “Convention refugee” (as am. by R.S.C., 1985 (4th Supp.), c. 28, s. 1), Sch. (as enacted by R.S.C., 1985 (4th Supp.), c. 28, s. 34).

United Nations Convention Relating to the Status of Refugees, July 28, 1951, [1969] Can. T.S. No. 6, Art. 1F(a).

CASES JUDICIALLY CONSIDERED

APPLIED:

Moreno v. Canada (Minister of Employment and Immigration), [1994] 1 F.C. 298 (1993), 107 D.L.R. (4th) 424; 21 Imm. L.R. (2d) 221; 159 N.R. 210 (C.A.); *Cardenas v. Canada (Minister of Employment & Immigration)* (1994), 74 F.T.R. 214; 23 Imm. L.R. (2d) 244 (F.C.T.D.).

CONSIDERED:

Yusuf v. Canada (Minister of Employment and Immigration) (1995), 179 N.R. 11 (F.C.A.).

REFERRED TO:

Ramirez v. Canada (Minister of Employment and Immigration), [1992] 2 F.C. 306 (1992), 89 D.L.R. (4th) 173; 135 N.R. 390 (C.A.).

APPLICATION for judicial review of a CRDD decision that the applicants were not Convention refugees on the grounds that the principal applicant was suspected of having participated as a member of a paramilitary group in war crimes or crimes against humanity, or that country conditions had changed. Application allowed.

APPEARANCES:

Dorothy E. Fox for applicants.

David W. Tyndale for respondent.

SOLICITORS OF RECORD:

Dorothy E. Fox, Toronto, for applicants.

Deputy Attorney General of Canada for respondent.

The following are the reasons for order rendered in English by

GIBSON J.:

INTRODUCTION

[1] These reasons arise out of an application for judicial review of a decision of the Convention Refugee Determination Division (the CRDD) of the Immigration and Refugee Board wherein the CRDD determined the applicants not to be Convention refugees within the meaning given to that phrase in subsection 2(1) of the *Immigration Act*.[1] The decision of the CRDD is dated 20 September, 2000.

BACKGROUND

[2] Damir Zdjelar (the male applicant) is a citizen of Croatia and is of Serbian nationality. Although he was born in Germany, he moved with his family to Croatia when he was 7 years old. Sanja Gredelj is also a citizen of Croatia, where she was born, and she too is of Serbian nationality. She and the male applicant are spouses. Natasa Zdjelar is the daughter of the male applicant and his spouse. She was born in the Federal Republic of Yugoslavia (FRY).

[3] The applicants base their claim to Convention refugee status on an alleged well-founded fear of persecution if required to return either to Croatia or to FRY by reason of their religion and nationality. Related to those grounds is the fact that they have only

refugee status in FRY and not citizenship. Further, the male applicant alleges that he remains a man of military age who evaded military service.

[4] The male applicant completed a course in auto mechanics in June of 1991 when Croatia and Slovenia had just undertaken to secede from FRY. At the time, the male applicant was living in the region of Serbian Krajina, very close to where violence ensued following the declaration of secession by Croatia. He received notice of recruitment into the Territorial Defence Forces of the Yugoslav National Army (the JNA) in August of 1991. The male applicant alleges that, during the formal conflict in the area where he lived, his service was restricted to performance of the duties of an auto mechanic. He alleges that he received no military training and he did not attain any rank. The CRDD wrote in its reasons:

> Whether the male claimant served with the JNA, Territorial Defence or in one of the paramilitary groups fighting on the side of the Army of Serbian Krajina … . was not established credibly by the male claimant's testimony … .

[5] Following the official end of the war between Croatia and the JNA in January of 1992, hostilities did not cease. The male applicant testified that he attempted to flee Serbian Krajina in April of 1993. His flight was unsuccessful. He endured a period of turmoil that included incarceration, further military service "under heavy shelling on the front" and forcible conscription. Following the signing of the Dayton Accord in 1995, he was reunited with his family.

[6] On August 4, 1995, the Croatian Army commenced "Operation Storm" during which the entire population of Serbian Krajina was uprooted and forcibly removed from Croatia. The male applicant, now in company with his spouse who was two months pregnant, was among the refugees leaving Serbian Krajina for Yugoslavia. During the course of their flight they were threatened and harassed by the Croatian Army and civilians. On arriving in FRY, they were given refugee status. They allege that, as refugees in FRY, they had no right to obtain citizenship or to earn a living, no voting rights and they were required to live in a designated refugee area.

[7] In 1998, the FRY government started a repatriation policy to facilitate the return of refugees to Croatia. The applicants feared for their safety and did not wish to return to Croatia. Further, the male applicant feared recruitment into the FRY Army in light of the intensifying military activities in Kosovo. In the result, the male applicant fled to Canada in October of 1998 using a false passport. His spouse and daughter followed in May of 1999.

DECISION OF THE CRDD

[8] The CRDD found the principal applicant to be excluded from consideration for Convention refugee status and found all of the applicants not to be Convention refugees by reason of changed country conditions in both FRY and Croatia.

[9] As to exclusion of the principal applicant, the CRDD wrote:

The panel suspects that the male claimant did not serve in the regular army and perhaps was part of the volunteers or irregulars in the army of Serbian Krajina. And, therefore, he did not fill out the section [in his Personal Information Form] about the military service. The male claimant's confusing and vague testimony also raises serious doubts as to the nature of his military activities and his association in VSK between 1991 and 1995.

The panel notes that during the above period, Krajina has been the scene of deplorable human rights violations by various factions of the VSK. The panel is of the opinion that there are serious reasons to believe that the male claimant, as a member of the VSK, has been complicit in war crimes and crimes against humanity against the non-Serb populations of Krajina. The panel arrives at such conclusion, in view of the claimant's original statement in his PIF that he was drafted into the VSK in 1991. The panel does not accept the claimant's allegation that he was forcibly conscripted by the VSK. The documentary evidence states that as a result of constant nationalistic propaganda emanating from Belgrade, the Serbs in Croatia were stirred into opposition to the authorities in Zagreb by the spring of 1990. The above document does not confirm any forcible conscription; rather it establishes that Serbs in Krajina armed themselves and joined various paramilitary groups operating in their areas. Moreover, the certificate of the Military Post Number 9104 Petrova, Gora confirms that the male claimant served as a member of rear brigade of the 11th infantry in the period of 01.08.1991-06.08.1995. The certificate in question substantiates that the male claimant has been involved in the arm [*sic*] conflict in Krajina. The certificate does not have a letterhead, it does not specify which army or government the 11th infantry unit belongs to, or what authorities they were reporting to. Such an apparent attempt for anonymity adds to the panel's concern that the claimant has been part of a paramilitary group associated with the VSK.

The above document states that "The Serbs who live on the territory of self-proclaimed "Republic of Serbian Krajina" maintain a relatively large army called VSK. The document states that "about 6000 men in paramilitary groups operates [sic] in the territory of Serbian Krajina. The volunteer units include the "Wolves from Wolftown", Arkan's "Tigers", Seslej's Chetniks."

The male claimant's misleading and confusing testimony with regards to his military activities, coupled with the obscure nature of the military certificate, leads the panel to a conclusion that the male claimant has been involved in one of the above paramilitary groups which are notorious for committing war crimes and crimes against humanity. [Emphasis added; citations omitted.]

[10] As to non-inclusion by reason of changed country conditions, the CRDD wrote:

In the alternative if we were to accept that the male claimant has not been involved in war crimes and crimes against humanity (which we do not), the claimants can return either to Croatia or Yugoslavia.

The documentary evidence states that between the end of 1995 and July 1999, according to Government figures 62,500 Croatian Serbs returned to their pre-war places of residence. In addition, the FRY office of the United Nations High Commissioner for Refugees reports that some 47,000 Croatian Serbs have arrived from Croatia since late 1995.

The document establishes that despite some occasional ethnic tensions in certain villages, the overall security situation in Krajina is calm and stable. There is no question that Serbs in Croatia face systematic discrimination and in some instances [are] treated as second class citizens. They also may face occasional harassment, and intimidation from their Croat

> neighbours. However, the preponderance of the documentary evidence does not support the allegation that Serbs in Croatia are at risk of persecution. The situation is especially promising, given the election of the new president Stipe Mesic and the end of the autocratic nationalism of Frano Tudjman, the late president. The president-elect has promised to accept the return of 300,000 Serbs and an end to the nationalistic polices [sic] of the previous government. He also stated that "He would show he was the president of all citizens, regardless of their nationality. I am ready to make gestures that will help end collective accusations [of the Serbs], even if no such gestures come from their side." Given the above, the panel is not satisfied that the claimants have good grounds to fear persecution in Croatia.
>
> With respect to Serbia, the evidence establishes that the claimants have refugee status in Serbia. The documentary evidence establishes that the situation of refugees are [sic] far from ideal. There is a shortage of housing and employment. However, there is no evidence of persecution of Serb refugees from Croatia by the Serbian population or the authorities. The claimants' own testimonies do not establish a fear of persecution in Serbia. They have been issued passports and there is no evidence that they have been denied the basic human rights because of not having citizenship in that country. The male claimant's assertion that he would be forcibly conscripted into the Serbian army is no longer well-founded in light of the present country conditions. The panel notes that the war in Kosovo, which due to its potential for forced conscription, was a source of frustration for the male claimant is now over. There was no evidence such as a pending call-up notice, or a summons to cause a problem for the male claimant upon his return to Serbia. [Emphasis added; citations omitted.]

In the foregoing quotation, the CRDD uses, interchangeably, Yugoslavia, FRY and Serbia.

ANALYSIS

Exclusion

[11] The CRDD found the principal applicant to be excluded under Article 1F(a) of the *United Nations Convention Relating to the Status of Refugees* signed at Geneva on 28 July, 1951 [[1969] Can. T.S. No. 6], including the Protocol thereto signed at New York City on 31 January, 1967. The relevant portion of Article 1F(a) of the Convention, which forms part of a Schedule to the *Immigration Act* [as enacted by R.S.C., 1985 (4th Supp.), c. 28, s. 34], reads as follows:

> F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:
>
> (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; [Emphasis added.]

[12] In *Moreno v. Canada (Minister of Employment and Immigration)*,[2] Mr. Justice Robertson, for the Court, wrote at pages 308 and 309:

> It is universally accepted that the applicability of the exclusion clause does not depend on whether a claimant has been charged or convicted of the acts set out in the Convention. The Minister's burden is merely to meet the standard of proof embraced by the term

> ôserious reasons for considering". In *Ramirez v. Canada (Minister of Employment and Immigration)* …, this Court canvassed this aspect of refugee law and concluded that the standard was one well below that required under either the criminal law ("beyond a reasonable doubt") or the civil law ("on a balance of probabilities" or "preponderance of evidence").
>
> …
>
> The "less-than-civil-law" standard referred to in *Ramirez* is consistent with the intent of the signatories to the Convention who were adamant that international protection be unavailable to war criminals; … . However, it may well be that in strict legal theory the exclusion clause should be construed as erecting a threshold test to be met by the Minister rather than prescribing a standard of proof *per se.* [Emphasis added; citations omitted.]

I emphasize the references to the "Minister's burden" and to the "threshold test to be met by the Minister". The limited role of the Minister at the hearing of this matter before the CRDD is acknowledged by the CRDD in the following terms in its reasons:

> In a letter dated August 10, 1999, the Minister['s] Representative …, submitted a Notice of Minister's Intent to Participate pursuant to Paragraph 69.1(5)(*a*)(ii) of the *Immigration Act*. The notice indicated that by virtue of the male claimant's role within the armed forces, there were serious reasons for considering that he was compliant in crimes against humanity committed by Serbian forces in the region of Krajina, Croatia … . After hearing part of the principal claimant's testimony during the counsel's examination in chief, the Minister [by her representative] stated on the record that he wished to withdraw from the case. Notwithstanding the Minister's withdrawal, exclusion remained as an issue in the male claimant's case.

[13] At pages 1882-1883 of the Tribunal Record, the following statement by the respondent's representative before the CRDD is recorded:

> During the break, the Minister's Counsel had an opportunity to review all of the evidence, documentary and oral evidence of the claimant and had an opportunity to examine closely all of the documents that were filed--the personal documents filed by the claimant, as well as other documents in the possession of Citizenship and Immigration Canada.
>
> The Minister is of the view at this point in time that there is insufficient evidence to satisfy the six criteria set out in the Ramirez case dealing with exclusion under article 1(F)(a) of the Convention.
>
> The claimant has submitted a document from military authorities indicating he was a member of the 11th Brigade in the Fajena (ph). At this point in time there is no documentary evidence to substantiate the involvement of this specific unit in crimes against humanity, War Crimes, in that area and the Minister is not in possession of any documents which refute that specific document issued by the military authorities.
>
> So the Minister at this time is withdrawing its participation from this case with the proviso that if something develops during the remainder of this hearing that pertains to exclusion, that the Minister's office be advised accordingly.
>
> And, for the Record, the Minister's office is continuing its investigation into the background of this claimant and his involvement in the Army of the Republic of Serbian Krajena. If any new information comes to light or becomes available within a reasonable period of time, the

> Minister's office will undertake to make that information available to the Immigration and Refugee Board.
>
> And, finally [I] just wanted to thank the Refugee Board for giving me an opportunity to participate in this hearing and [I] just wanted to make it perfectly clear that the role of the Minister's Counsel is not to engage in frivolous or vexatious litigation or prosecutions of these kinds of cases and it is not our intention to continue to participate in this case and to go on a fishing expedition.[3]

[14] There was no evidence before me to the effect that the respondent reintervened before the CRDD. In effect, counsel for the respondent determined that further participation would constitute nothing more than a "fishing expedition", that there was insufficient evidence implicating the applicant to warrant continuing to pursue the issue of exclusion. Counsel for the Minister expressed no concerns regarding the validity of the document presented by the principal applicant from "military authorities indicating he [the principal applicant] was a member of the 11th Brigade in the Fajena (ph)." Nonetheless, the CRDD saw fit, apparently of its own initiative, to question the reliability of the "document from military authorities" and further cast doubt on the "evasiveness" of the principal applicant's testimony regarding his military service in concluding that the principal applicant was excluded from Convention refugee status.

[15] I re-emphasize the fact that the onus regarding exclusion lay with the Minister, and the Minister would appear to have abandoned her concern in this regard. The CRDD, nonetheless, picked up the gauntlet and engaged to a substantial degree in speculation to find against the male applicant. I am satisfied that in so doing, it committed a reviewable error. In *Cardenas v. Canada (Minister of Employment and Immigration)*,[4] Associate Chief Jerome wrote, at page 220:

> In effect, the Board has inculpated the applicant based on his association with the Front. The Board's conclusion is based on the very "guilt by association" that has been consistently warned against by the Court of Appeal in **Ramirez**, **Moreno**, and **Sivakumar**. In order to implicate a claimant as an accomplice to international crimes, the Board must be satisfied that the claimant had knowledge of the commission of international crimes and shared the organization's purpose in committing them. Mr. Poplete's case is not one where mere membership in the organization will attract culpability.
>
> The Board must be extremely cautious in its application of the exclusion clause, particularly in situations such as this one where it has concluded that the claimant has a well-founded fear of persecution in his country of origin.

Save for the last portion of the last-quoted sentence, the same might be said here.

CHANGED COUNTRY CONDITIONS

[16] While the CRDD here concluded that the applicants did not have a well-founded fear of persecution in their country of origin or FRY by reason of changed country conditions, I conclude that that element of the CRDD's decision is, as with the exclusion element, in error.

[17] In *Yusuf v. Canada (Minister of Employment and Immigration)*,[5] Mr. Justice Hugessen then of the Court of Appeal wrote at page 12:

> We would add that the issue of so-called "changed circumstances" seems to be in danger of being elevated, wrongly in our view, into a question of law when it is, at bottom, simply one of fact. A change in the political situation in a claimant's country of origin is only relevant if it may help in determining whether or not there is, at the date of the hearing, a reasonable and objectively foreseeable possibility that the claimant will be persecuted in the event of return there. That is an issue for factual determination and there is no separate legal "test" by which any alleged change in circumstances must be measured. The use of words such as "meaningful", "effective" or "durable" is only helpful if one keeps clearly in mind that the only question, and therefore the only test, is that derived from the definition of Convention Refugee in s. 2 of the Act: does the claimant now have a well-founded fear of persecution? Since there was in this case evidence to support the Board's negative finding on this issue, we would not intervene.

[18] While, as in *Yusuf*, on the facts of this matter, it might be said that there was evidence to support the CRDD's finding that the applicants would not be at risk of persecution if returned to FRY or to Croatia, there was certainly evidence before the CRDD to the contrary and I am not satisfied that the decision of the Court of Appeal in *Yusuf* constitutes a direction not to weigh the "meaningfulness", "effectiveness" and "durability" of the evidence of change in the presence of evidence to the contrary. Once again on the facts of this matter, I am not satisfied that the CRDD engaged in an effective weighing of the evidence for and against changed country conditions that was before it as at the date of this hearing. In the earlier quotation from the reasons of the CRDD relating to changed country conditions, it writes of an "especially promising" situation in Croatia without giving what I consider to be appropriate weight to the history of instability in the geographic region in question and the regularly recurring disappointment when "especially promising" elements fail to mature into ethnic harmony. The same might be said of its references to promises, intentions and future gestures. The experience of the two adult applicants in Croatia was, I am sure, terrifying. Conditions for Serbs in that country I am satisfied could not, on the evidence before the CRDD have been said to have favourably stabilized at the time of the CRDD's decision. There may have been "especially promising" developments. The applicants were, I am satisfied, entitled to something more than "special promise" and the like before being asked to return to "take their chances" again.

[19] As to changed country conditions in FRY at the time of the decision of the CRDD, the comment in the foregoing quotation from the reasons of the CRDD relating to change that the applicants had "been issued passports" is clearly wrong or simply out of context. The evidence before the CRDD was clearly to the effect that the applicants held Croatian passports under the auspices of the United Nations and did not have passports from the FRY. In that country, while they had refugee status, restrictions on their rights continued to prevail. At the time of the CRDD's decision, they were not entitled to citizenship. They could not vote. There were restrictions on their ability to earn a livelihood and on where they could live. In short, if they could be said to be "citizens" at all, they would have been, if returned, second-class citizens. Indeed the

very question of whether they could be returned to FRY was in doubt in view of the fact that they did not hold passports from that country and were not citizens of that country.

[20] To reiterate, I conclude that the CRDD erred in a reviewable manner concluding that the applicants had ceased to have a claim to Convention refugee status as against both Croatia and the FRY by reason of changes in country conditions.

CONCLUSION

[21] On the basis of the foregoing analysis, I conclude that this application for judicial review should be allowed, that the decision of the CRDD that is under review should be set aside and the applicant's application for Convention refugee status should be referred back to the Immigration and Refugee Board for rehearing and redetermination by a differently constituted panel. An order will go accordingly.

CERTIFICATION OF A QUESTION

[22] At the conclusion of the hearing of this application for judicial review, I undertook to distribute my reasons in advance of issuing an order and to provide counsel an opportunity to make submissions on certification of a question. These reasons will be distributed in accordance with that undertaking. Counsel will have ten days from the date of these reasons to make submissions on certification of a question and any additional submissions as to the form that my order might take. Any such submissions should, of course, be exchanged in adequate time to allow for any reply submissions within the time provided.

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[1] R.S.C., 1985, c. I-2 [as am. by R.S.C., 1985 (4th Supp.), c. 28, s. 1].

[2] [1994] 1 F.C. 298 (C.A.).

[3] Tribunal Record, vol. 5, at pp. 1882-1883. The reference to the "*Ramirez* case" is to *Ramirez v. Canada (Minister of Employment and Immigration)*, [1992] 2 F.C. 306 (C.A.).

[4] (1994), 74 F.T.R. 214 (F.C.T.D.).

[5] (1995), 179 N.R. 11 (F.C.A.).