



RPD File No. / N° de dossier de la SPR : MB9-24325
UCI / IUC : XXXX

Private Proceeding / Huis clos

Reasons and decision – Motifs et décision

Claimant(s)	XXXX XXXX XXXX XXXX	Demandeur(e)s d'asile
Date(s) of hearing	September 16, 2021	Date(s) de l'audience
Place of hearing	Virtual Hearing	Lieu de l'audience
Date of decision and reasons	October 25, 2021	Date de la décision et des motifs
Panel	Camille Larouche	Tribunal
Counsel for the claimant(s)	Cristian Roa-Riveros	Conseil(s) du (de la/des) demandeur(e)s d'asile
Designated representative	N/A	Représentant(e) désigné(e)
Counsel for the Minister	N/A	Conseil du (de la) ministre

REASONS FOR DECISION

INTRODUCTION

[1] XXXX XXXX XXXX XXXX (the claimant) is a citizen of Mexico. She is claiming refugee protection under section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*¹ (the IRPA).

ALLEGATIONS

[2] In her Basis of Claim Form² (BOC Form), the claimant states that she owned a family XXXX in Veracruz.

[3] On XXXX XXXX XXXX 2018, three armed men who claimed to be members of the *Cártel Jalisco Nueva Generación* (the CJNG) showed up at the claimant's XXXX. They demanded that she pay a monthly amount of XXXX XXXX XXXX XXXX XXXX pesos. Under the threat that she and her family would be killed, the claimant began paying the monthly amount demanded starting the following month.

[4] In XXXX 2019, the claimant decided to leave Mexico because she was struggling to pay the money that was being extorted from her every month.

[5] On XXXX XXXX XXXX 2019, the claimant left Mexico for Canada. Her refugee protection claim was referred to the panel on XXXX XXXX XXXX 2019.

[6] In short, the claimant states that her life is at risk in Mexico by the CJNG because she refused to continue being extorted.

DETERMINATION

[7] For the reasons below, the panel concludes that the claimant failed to establish a serious possibility of persecution under a Convention ground or that, on a balance of probabilities, she

¹ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

² Document 2 – Basis of Claim Form (BOC Form).

would be subjected personally to a risk to her life, to cruel and unusual treatment or punishment, or a danger of torture if she had to return to Mexico.

ANALYSIS

Identity

[8] The claimant established her identity, on a balance of probabilities, with a copy of her passport, which was issued by Mexico.³

Persecution with a nexus to the Convention

[9] At the hearing, the claimant stated that she is at risk of persecution by reason of her membership in the particular social group of vulnerable women. The claimant cited violence in the context of the widespread discrimination of women in Mexico. The panel therefore considered Chairperson's *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*.⁴ After reviewing all of the claimant's circumstances, in light of the documentary evidence on discrimination and violence against women in Mexico, the panel concludes that the claimant failed to establish the existence of a serious possibility of persecution if she returned to Mexico.

[10] The panel analyzed the claimant's profile. She is a single, XXXX-year-old woman. The evidence presented to the panel shows that the claimant has a high school education and that she has accumulated a number of years of experience in the labour market as the XXXX of the family XXXX opened by her grandmother.⁵ The claimant employed two people to help operate her business. The claimant submitted photographs into evidence, one of which shows her alongside other businesspeople in her neighbourhood.⁶ These businesspeople respected the claimant, and she was known within her community. The evidence shows that the claimant was able to maintain the reputation of the XXXX passed down by her mother and grandmother. At the hearing, the claimant

³ Document 1 – Information package provided by the Canada Border Services Agency (CBSA) and/or Immigration, Refugees and Citizenship Canada (IRCC): Passport copy.

⁴ Immigration and Refugee Board of Canada (IRB). *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*. Guideline issued by the Board pursuant to subsection 65(3) of the *Immigration Act*. Effective November 13, 1996.

⁵ Document 1 – Information package provided by the CBSA and/or IRCC: IMM 5669 form – Schedule A.

⁶ Document 4 – Exhibit C-4: Evidence establishing that the claimant's restaurant exists.

explained that, once the extortion began, she needed another source of income. As a result, she went to Mexico City to XXXX XXXX, such as women's XXXX and XXXX, so that she could XXXX them in her neighbourhood.

[11] The claimant testified that she has one brother and an aunt in Veracruz. Her children are also there. The claimant explained that, when she was being extorted, she did not want to involve her brother who lives in Veracruz so as not to cause him problems. She rarely speaks to him nowadays. Her father died in 2014. Until now, the claimant had always been responsible for providing for her children as a single mother. She is the pillar of the family. One of her daughters is now XXXX years old and the other is XXXX.⁷ The claimant testified that she sends part of her income to Mexico to pay for all her daughters' and grandchildren's expenses.

[12] In short, the claimant is a single woman who knows how to XXXX her family business and her employees, and ensure that her children and grandchildren want for nothing. In the past, the claimant has demonstrated her resourcefulness and independence, as well as her entrepreneurial skills. Furthermore, the claimant also has family members in Mexico.

[13] The objective documentation reports various groups of women who are more at risk of discrimination and violence. For example, low-income single mothers with children under 15 years of age,⁸ single women over the age of 60 without family support,⁹ indigenous peoples,¹⁰ migrants or racialized women,¹¹ women with disabilities,¹² women with diverse sexual orientation, gender identity and expression,¹³ women seeking to leave a violent relationship,¹⁴ and women living in a

⁷ Document 2 – BOC Form, question 5.

⁸ Document 3 – National Documentation Package (NDP), Mexico, September 29, 2021, Tab 5.7: Response to Information Request MEX106364.E, IRB, February 5, 2020.

⁹ Document 3 – NDP, Mexico, September 29, 2021, Tab 5.14: Response to Information Request, MEX200275.E, IRB, August 26, 2020.

¹⁰ Document 3 – NDP, Mexico, September 29, 2021, Tab 13.2: *Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Mexico, A/HRC/39/17/Add.2*, United Nations. Human Rights Council, June 28, 2018.

¹¹ Document 3 – NDP, Mexico, September 29, 2021, Tab 5.6: *Mexico's double pandemic: Femicide and impunity during Covid-19*, Latin America Bureau. Fernanda Alvarez-Piñero, May 5, 2021.

¹² Document 3 – NDP, Mexico, September 29, 2021, Tab 5.18: *Information received from Mexico on follow-up to the concluding observations on its ninth periodic report*, United Nations, Committee on the Elimination of Discrimination against Women, October 21, 2020.

¹³ Document 3 – NDP, Mexico, September 29, 2021, Tab 6.4: Response to Information Request, MEX105953.E, IRB, February 16, 2018.

¹⁴ *Supra*, footnote 8.

situation of poverty or vulnerability due to social deprivation or income¹⁵ are some of the most vulnerable groups who are most at risk of violence.

[14] The claimant is not an older woman as understood in, for example, Tab 7.14 of the National Documentation Package on Mexico, to which the claimant's lawyer refers in his arguments. This tab refers to the situation of women aged 60-65 and older. Some of the sources cited in this tab suggest that these women are more vulnerable to violence by reason of their gender and age. Others state that specific data on acts of violence against these women is unknown. A significant proportion of complaints involving physical and psychological violence are cases of family or domestic violence. It is clear from the information in this tab that age is not the only relevant factor. The panel is of the opinion that the claimant does not correspond to the profile of women described in that tab. The claimant is not yet XXXX, has a job in Canada and knows how to be financially independent as a businesswoman in Mexico. There is nothing in the evidence that establishes, on a balance of probabilities, that she would no longer be able to support herself if she returned to Mexico, thereby making her more vulnerable to various forms of violence by reason of her gender. The panel recalls, moreover, that the claimant still has family members in Mexico.

[15] The claimant did not testify of circumstances or characteristics that would establish, on a balance of probabilities, a profile that corresponds to the profile of women mentioned in the objective documentation cited above, who are more at risk by reason of their gender.

[16] The panel concludes that the claimant failed to establish, in light of her profile, the existence of a serious possibility of persecution by reason of her gender if she returned to Mexico.

Non-state agent of harm

[17] Since the agent of harm is not a state actor, the panel concludes that paragraph 97(1)(a) of the IRPA does not apply. The panel will therefore conduct its analysis under paragraph 97(1)(b) of the IRPA.

Internal flight alternative

¹⁵ Document 3 – NDP, Mexico, September 29, 2021, Tab 5.22: *Justice on Trial: Failures in criminal investigations of feminicides preceded by disappearance in the state of Mexico*, Amnesty International, September 20, 2021.

[18] The determinative issue in the panel's analysis under paragraph 97(1)(b) of the IRPA is the internal flight alternative (IFA). The panel points out that it presumes that the claimant's allegations are true, unless specified as part of its analysis below.

[19] For the reasons below, the panel concludes that the claimant has an IFA in the cities of Mérida and Campeche.

[20] First, although the objective documentation supports the claim that the cartels have the ability to locate someone in Mexico, the panel is of the opinion that the claimant failed to demonstrate, on a balance of probabilities, that her agents of harm would have an interest in locating her or have the necessary motivation to find her in one of the proposed IFAs.

[21] At the hearing, the claimant did not testify about any signs that the people who threatened her have been willing to find her since she left Mexico, just over two years ago. Her daughters and her grandchildren moved elsewhere in Veracruz some time after she left Mexico. The claimant left the business to one of her daughters, who dealt with the dismissal complaint of one of her employees after she left Mexico. Her brother and one of her aunts are also in Veracruz. The claimant testified that the agents of harm did not contact them about her. However, the objective documentation states that criminal organizations use family networks to track people.¹⁶ The claimant also testified that her agents of harm knew everything about her and her family. The panel recalls that the claimant's family was also targeted in the threats that she was receiving. The claimant's statements regarding their motivation to find her in either of the proposed IFAs is based solely on her own speculations and beliefs and have no objective basis. The evidence presented to the panel does not demonstrate an ongoing interest or any signs of willingness to seek vengeance by the agents of harm in terms of locating her for failing to pay the amount demanded.

[22] Consequently, the claimant failed to establish, on a balance of probabilities, that she would be subjected personally to a risk to her life or a risk of cruel and unusual treatment or punishment in one of the proposed IFAs.

[23] Second, the panel concludes that the claimant failed to establish, on a balance of probabilities, that the situation in the proposed IFAs was such that it would be unreasonable for

¹⁶ Document 3 – NDP, Mexico, September 29, 2021, Tab 7.15: Response to Information Request MEX106302.E, IRB, August 15, 2019, p. 11.

her, in light of all the circumstances, to seek refuge there. The courts have established a very high threshold for what constitutes a reasonable IFA in the circumstances.

[24] The panel points out that no evidence suggests that she will be unable to support herself or find housing in the proposed IFAs. As previously mentioned, the panel notes that the claimant has a high school education and that she has accumulated a number of years of experience as the XXXX of her family business. For example, the objective documentary evidence reports that the government in Yucatán, where one of the IFAs is located, has launched programs to facilitate the integration of women into the labour market.¹⁷ There is also a program in Yucatán that provides a line of credit for small family businesses.¹⁸ There is no evidence that suggests that she would be unable to support herself or find housing in the proposed IFAs.

[25] The objective documentary evidence¹⁹ reports that the states of Yucatán and Campeche, where the proposed IFAs are located, are some of the most peaceful states in Mexico.

[26] Considering the claimant's profile and the objective evidence, the panel concludes that the proposed IFAs are reasonable.

[27] For the reasons stated above, the panel concludes that the cities of Mérida and Campeche are viable IFAs for the claimant.

¹⁷ *Supra*, footnote 8.

¹⁸ *Ibid.*

¹⁹ Document 3 – NDP, Mexico, September 29, 2021, Tab 1.5: *Mexico Peace Index 2020*, Institute for Economics and Peace, May 2020.

CONCLUSION

[28] The panel concludes that **XXXX XXXX XXXX XXXX** failed to establish that there is a serious possibility of persecution under a Convention ground or that, on a balance of probabilities, she would be subjected personally to a risk to her life, a risk of cruel and unusual treatment or punishment, or a danger of torture if she had to return to Mexico.

[29] **XXXX XXXX XXXX XXXX** refugee protection claim is rejected.

Camille Larouche

October 25, 2021

IRB translation
Original language: French