



RPD File No. / N° de dossier de la SPR : MB8-13067
Client ID No. / No ID client : XXXX

Huis clos / Private Proceeding

Reasons and Decision – Motifs et décision

Claimant(s)	XXXX XXXX	Demandeur(e)(s) d'asile
Date(s) of hearing	August 8, 2018	Date(s) de l'audience
Place of hearing	Montreal, Quebec	Lieu de l'audience
Date of decision and reasons	September 11, 2018	Date de la décision et des motifs
Panel	Ludmila Pergat	Tribunal
Counsel for the claimant(s)	Victor E Pilnitz	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

[1] XXXX XXXX is a 42-year-old male and a national of Georgia. He claims to have a well-founded fear of persecution on the grounds of religion. He also claims to be a person in danger of torture and a person who faces a risk to life or a risk of cruel and unusual treatment or punishment.

DETERMINATION

[2] The Immigration and Refugee Board (IRB) determines that the claimant is neither a “Convention refugee” nor a “person in need of protection.”

IDENTITY

[3] The identity of the claimant was established to the tribunal’s satisfaction by his original Georgian passport. Citizenship and Immigration Canada (CIC)¹ submitted photocopies of the claimant’s passport. Based on the passport and the testimony of the claimant, the tribunal is satisfied that, on a balance of probabilities, the claimant has established his identity.

ALLEGATIONS

[4] The claimant alleges that he is Christian and is in a common-law partnership (at times referring to her as his wife) with XXXX XXXX, a Muslim girl, whom he met in 2001. They wanted to marry but her parents opposed the marriage unless the claimant became a Muslim. Furthermore, his in-laws objected to the claimant registering his son, born in 2002, under his name unless he agreed to convert to Islam. The claimant promised that he would convert and registered his son under his name. However, he did not convert. He alleges that her family did not allow him and his son to go to church.

[5] On September 1, 2009, the claimant, his wife, and son moved from XXXX to Tbilisi. The claimant stated that everything went smoothly. His son was going to school; the claimant was working at the porcelain company and attending a Christian Orthodox Church. The claimant

¹ Document M-1: Immigration documents – Port of entry notes.

wrote in his narrative that his father-in-law and brother-in-law came to his home in Tbilisi and once again demanded that he convert to the Muslim faith. He told them that he would not obey, and on June 15, 2010, moved his family to his parents' home in Gurjaani to help protect his family from pressure for him to convert to Islam.

[6] The company where the claimant worked closed and he and his cousin, XXXX XXXX, borrowed \$30,000 from XXXX XXXX to open a business. The moving company which they used to import clothing from Turkey was sequestered by Revenue of Georgia and the claimant and his cousin lost their money since their merchandise could not be delivered. His father-in-law told the lender that the claimant and his cousin could not repay the monies. His father-in-law colluded with the lender, XXXX XXXX, to make the claimant's life a nightmare. The claimant's in-laws went to the claimant's home, cursed at him, and beat him with a stick and belt until he was unconscious. The claimant came to in the hospital. His father was there and said that he would file a complaint with the police. The claimant alleges that XXXX uncle was behind the police, who refused to do anything about the incident citing that it was domestic violence.

[7] The claimant was kidnapped once and beaten again on several other occasions. After the last incident on February XXXX, 2011, the claimant and his family decided that he should leave Georgia.

[8] He left Georgia on April XXXX, 2011 to go stay with a friend in Canada. He went to France and stayed there from April XXXX, 2011 until August XXXX, 2012. He then left France on August XXXX, 2012. He arrived in Canada on August XXXX, 2012.

ANALYSIS

[9] The tribunal had difficulty in getting consistent testimony from the claimant. His answers were vague, evasive, contradictory, and confusing. His testimony was not spontaneous when questions were asked out of the order of the story. The tribunal did take into account both of the claimant's narratives. The first was part of his PIF, received at the IRB on September 17, 2012,

and the second received on July 24, 2018.² The tribunal also referred to the Port of Entry (POE) interview notes.³

[10] The claim for refugee protection which the claimant presented hinges on two factors.

[11] The first factor is his problems with his in-laws stemming from him being a Christian and his common-law partner being Muslim. The second is that he and his cousin have a debt of \$30,000, which he has not repaid, and as a result of which his in-laws are colluding with the lender to make the claimant's life a nightmare.

[12] The tribunal does not believe either one of these claims for the following reasons.

Religion

[13] The CBSA agent questioned the claimant with a Russian interpreter, as requested by the claimant. He asked the claimant what problems he had to cause him to leave Georgia and come to Canada. The claimant responded that he was having problems with the "criminal authorities." When asked what he meant by criminal authorities, the claimant responded, "people who are the bossy people." The agent asked him to explain who the criminal authorities are to which he claimant responded, "Criminal authority are the people who control the situation." The agent told the claimant that he was being intentionally vague. The agent had to remind the claimant that he was required by law to answer his questions. The claimant said that he was answering all of the agent's questions and again gave, in the tribunal's view, a vague answer: "Criminal authorities are those people who can go to any citizen and just kill them." Eventually, he said that he borrowed a large amount of money and could not repay it.

[14] The claimant never mentioned religion, even though he was asked why he feared persecution in Georgia. He did say that he was married. It was said several different ways that the persecution was from the criminal authorities. He never mentioned religion or his in-laws forcing him to convert or him being Christian and his wife being Muslim.

² Exhibit P-1: Personal documents – Amplified Narrative, p. i-vi.

³ Document M-1: Package of information from the referring CBSA/CIC – Port of Entry interview notes.

[15] Confronted with why he did not mention religious persecution, he responded that it was to be brief and that he would tell it later in his story.

[16] The tribunal concluded that the claimant fabricated the story about the gravity of his religious problems, if in fact they exist, as he did not state it to the CBSA as the reason for his being persecuted. This was a major omission, given that the basis of his claim of being a “Convention refugee” is religion. His explanation that he was told to be brief is negated by the CBSA factual evidence when to the contrary, he was asked to explain. If religious persecution is in fact one of the two reasons that the claimant left Georgia, the tribunal does not find it credible that the claimant would not mention it at the border.

Debt

[17] The claimant alleges that he and his cousin borrowed money and were not able to repay it. The claimant wrote in his narratives that his cousin decided to sell his house but they needed time. The loan was taken out in the second half of 2010. Allegedly, his father-in-law told the lender on October 20, 2010, that he, the claimant, was not going to repay the loan. As a result, he was verbally abused and beaten by his in-laws and other persons that were in collusion with the lender. When one of the beatings landed the claimant in the hospital, his father made a complaint to the police, who refused to deal with the problem, saying that it was domestic violence.

[18] The claimant said that he and his cousin borrowed \$30,000 that they could not repay. Then he said that his cousin would sell his house and repay the loan but it would take time. The claimant’s cousin provided a statement⁴ confirming that he had a desire to sell his house and repay the loan.

[19] The tribunal cannot ignore what the claimant said to the agent at the CBSA. He kept insisting that he was having problems with the criminal authorities, bossy people, those people that can go to any citizen and just kill them. Later, he mentions a loan that he could not repay. Giving the claimant the benefit of the doubt that there was a loan taken out by him and his

⁴ Exhibit P-10: Personal documents – Birth Certificate (XXXX XXXX) and Statement.

cousin, his cousin said that he was going to sell his house to repay the loan. Once the debt is gone, the lender would have no reason to pursue the claimant.

[20] The claimant submitted a copious amount of letters from Georgia. The tribunal does not question the medical records as to the injuries he sustained. However, the tribunal does not believe that he sustained these injuries because of his in-laws wanting him to convert to Islam for reasons previously discussed. How and why he sustained the injuries is questionable since he told the CBSA it was the criminal authorities that were after him and he told the tribunal that it was the person who lent him the money, his father-in-law, and his brother-in law. The tribunal does not question the veracity of the medical conditions in the reports.⁵ However, the tribunal gives no probative value as to how the injuries occurred since it is the claimant that told the doctor what happened and the details are either family dispute or general account of being beaten. The death certificate of his father⁶ is also not in question.

[21] There is also the issue of travel. The claimant left Georgia and went to stay in Paris, France for approximately fifteen months, according to question 11 in his PIF. When questioned as to whether he asked for refugee protection in France and what he did in France, he said that he did not ask for refugee protection, that he was waiting for papers to come to Canada.

[22] Although the claimant is not required to seek refugee protection at the first opportunity, the claimant was in France for over one year. It was not a brief stopover. France is a signatory of the Geneva Convention. The claimant alleges that he feared for his life. It is not unreasonable for the tribunal to expect that he would seek protection.

[23] The tribunal draws a negative inference and this further puts into question the claimant's story. The tribunal believes that the claimant wanted to come to Canada and fabricated his story, which was inconsistent from the CBSA and the narratives in his PIF.

⁵ Exhibit P-13: Personal documents – Medical Documentation Form (17/XII/2013).

Exhibit P-14: Personal documents – Medical Documentation Form (11/01/2011).

Exhibit P-16: Personal documents – Medical Documentation Form (19/02/2011).

⁶ Exhibit P-9: Personal documents – Medical Documentation Form (02/07/2013).

[24] Given the general lack of credibility of the claimant, the tribunal does not believe that the other incidents occurred.

[25] Given the finding that the claimant's story is not credible, the tribunal believes that the claimant does not face a serious risk of persecution should he return to Georgia.

[26] The tribunal, having come to the conclusion that the claimant is not credible and not able to establish that there is a serious possibility that he would be persecuted for reason of religion, turned to look at all the evidence submitted to determine if the claimant is a person in need of protection. The tribunal analyzed the claim from the perspective of a person in need of protection and has determined that the claimant faces neither a risk to life nor a risk of cruel and unusual treatment or punishment nor is he a person in need of protection as defined in the *Immigration and Refugee Protection Act*.

CONCLUSION

[27] After having considered all testimonies, both written and oral, the tribunal finds that the claimant has not discharged his burden of proof.

[28] Based upon the above analysis, the tribunal determines that **XXXX XXXXXXXXX** is neither a "Convention refugee" as defined in section 96 of the *Immigration and Refugee Protection Act* nor a "person in need of protection" as defined in section 97(1) of that law.

Ludmila Pergat

Ludmila Pergat

September 11, 2018

date

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