



## CITIZENSHIP AND IMMIGRATION

### STATUS IN CANADA

#### *Convention Refugees and Persons in Need of Protection*

Judicial review of Immigration and Refugee Board, Refugee Appeal Division (RAD) decision rejecting applicant’s refugee claim on basis that applicant’s narrative found implausible since not according with objective evidence about Hezbollah’s recruitment practices in Lebanon, that aspects of applicant’s account inconsistent with assertion that Hezbollah interested in forcing him to fight — Applicant arguing that RAD’s decision contrary to *Valtchev* principle that implausibility findings should be made only in “clearest of cases”: *Valtchev v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 776 — Heart of applicant’s claim for refugee protection was that Hezbollah tried to forcibly recruit him to fight for them in Syria; would do so if he returned to Lebanon — Applicant recounted Hezbollah’s efforts to recruit him in Beirut from 2013 to 2016 — RAD concluded that applicant’s narrative of attempted forcible recruitment by Hezbollah not credible for two primary reasons: (i) inconsistency with objective documentary evidence regarding Hezbollah’s recruitment practices; (ii) inconsistencies between applicant’s narrative, assertion that Hezbollah was trying to forcibly recruit applicant — Whether RAD erring in concluding that applicant’s account of his attempted forcible recruitment by Hezbollah was implausible; whether RAD erring in its assessment of other documents filed in support of applicant’s application — RAD’s finding that applicant’s story not credible was implausibility finding, such implausibility finding reasonable — RAD’s reasons showing RAD adopted framework established by Court regarding implausibility findings; applied that framework to evidence in reasonable manner — *Valtchev* not creating standard of impossibility; not limiting implausibility findings to cases where it is impossible that alleged events occurred — RAD’s distinction between “implausibility”, “impossibility” consistent with Court’s case law, reasonable — *Valtchev* not displacing overall burden on refugee claimant to establish their claim on balance of probabilities — “Clearest of cases” standard from *Valtchev* neither displacing balance of probabilities standard nor reversing legal burden of proof — *Valtchev* also seeking to ensure that implausibility findings do not rely on misplaced assumptions about what is likely or rational from Canadian frame of reference — Not precluding consideration of plausibility or likelihood in making credibility assessments — *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, 441 D.L.R. (4th) 1 confirming that factual findings reviewed on reasonableness standard, that such review not entailing reweighing or reassessing evidence — Thus, RAD’s statements that “implausibility” is not same as “impossibility”, that “clearest of cases” standard not displacing general standard of balance of probabilities, reasonable — RAD undertaking detailed consideration of objective evidence, including both those elements in evidence indicating that forcible recruitment did not happen, those elements describing reported instances of it having occurred — RAD’s assessment of plausibility not solely based on its assessment that objective evidence not supporting forcible recruitment by Hezbollah of men with applicant’s profile — RAD also assessed applicant’s specific factual allegations — RAD expressly concluding that based on both country condition evidence, applicant’s factual account, events described were outside realm of what could reasonably be expected in present circumstances — This was assessment required by *Valtchev* — Based on review of RAD’s decision, satisfied that RAD understood, applied appropriate approach to its implausibility finding, that its finding reasonable — Other supporting documents applicant submitting not helpful to corroborating his claim, not resolving credibility issues raised by assessment that applicant’s story implausible — Therefore, RAD’s assessment of supporting documents applicant filing reasonable — Application dismissed.

AL DYA V. CANADA (CITIZENSHIP AND IMMIGRATION) (IMM-4025-19, 2020 FC 901, McHaffie J., reasons for judgment dated September 17, 2020, 27 pp.)