Federal Court  Cour fédérale

**Date: 20191202**

**Docket: T-1981-18**

**Citation: 2019 FC 1543**

[ENGLISH TRANSLATION]

**Ottawa, Ontario, December 2, 2019**

**PRESENT: The Honourable Mr. Justice Simon Noël**

**BETWEEN:**

**SULAIMAN ALMUHAIDIB**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

## JUDGMENT AND REASONS

## I. Overview

[1] The applicant, Sulaiman Almuhaidib, seeks judicial review of the decision of a citizenship officer, dated October 30, 2018, declaring his citizenship application "abandoned" under subparagraph 13.2(1)(a)(i) of the *Citizenship Act*, RSC 1985, c C-29 [CA], for failing to provide additional information and evidence required by the respondent under section 23.1 of the CA. For the reasons that follow, I find that this application for judicial review must be dismissed.

[2] Becoming a Canadian citizen is a privilege. It is a privilege that is conferred only once a citizenship applicant has taken the oath of citizenship, these 24 words signifying adherence to our constitution and our country. Until that oath is taken before a citizenship judge, an applicant has an obligation to demonstrate the merits of their citizenship application, particularly when a credible doubt arises. This is why if, during the course of a proceeding, a potential contradiction or omission regarding an essential fact is discovered and an applicant is unable to justify it, the Minister retains the power to investigate. Consequently, a citizenship application comes to fruition only after the oath of citizenship has been taken.

[3] In the present case, following the decision of the citizenship judge and the granting of a citizenship certificate to the applicant by a Minister's delegate, significant omissions and contradictions regarding the citizenship application were noted. Given that the applicant's citizenship application had not been "finally disposed of" under subsection 31(1) of the *Strengthening Canadian Citizenship Act*, SC 2014, c 22 [SCCA], since he had not yet taken the oath of citizenship, the Minister asked him for additional information and evidence under section 23.1 of the CA to justify these significant omissions and contradictions. However, despite multiple opportunities to do so, the applicant has not satisfactorily justified these omissions and contradictions. Rather, he decided to explain why he did not think he had to. Consequently, it was reasonable to declare his citizenship application abandoned, in accordance with subparagraph 13.2(1)(a)(i) of the CA. That said, these new powers granted to the Minister should not be used in a way that creates ongoing uncertainty for citizenship applications. In this regard, the conclusion in paragraph 156 of this decision is important to consider.

## II. Facts

[4] The applicant is a citizen of the Kingdom of Saudi Arabia and has been a permanent resident of Canada since December 25, 2006.

[5] The applicant began the process of becoming a Canadian citizen on August 12, 2010, by submitting an application for citizenship. In his application, he noted that he had been absent from Canada for a total of only 162 days between December 25, 2006, and August 12, 2010. The applicant also stated that he worked solely as chairman of the Canadian company Almassa Group, located in Montréal. In addition, the applicant included with his application a document

listing six stays outside Canada between January 2007 and June 2010, all in Saudi Arabia for personal reasons.

[6] Subsequently, in November 2011, the applicant submitted a Residence Questionnaire in which he again stated that he worked solely as chairman of Almassa Group in Montréal. In addition, he listed eight trips outside Canada between January 2007 and August 2011, again, all of them to Saudi Arabia for personal reasons.

[7] With his Residence Questionnaire, the applicant included a variety of documents, including an affidavit signed on September 18, 2008, which had been given to the Canada Border Services Agency to explain the reasons why he and his family had more than $10,000.00 in their possession upon a return to Canada. However, the content of this affidavit contradicted not only his application for citizenship, but also the Residence Questionnaire. Indeed, in the affidavit, the applicant stated that he had been out of the country from December 19, 2007, to February 13, 2008, to visit Saudi Arabia, Egypt, the United Arab Emirates, Lebanon and Mauritius for personal and business reasons. However, this information directly contradicts what is stated in his Residence Questionnaire and his application since they note instead (1) that he had not visited any country other than Saudi Arabia; (2) that he had only travelled for personal reasons; and (3) that he left Canada from January 9, 2008, to February 13, 2008, and not from December 19, 2007, to February 13, 2008. In addition, copies of passports submitted with the Residence Questionnaire do not include any entry stamps for a country other than Saudi Arabia during this period. These discrepancies between the various documents therefore suggested that there was a possibility that the applicant was using another undeclared passport.

[8] Following the assessment by a citizenship officer, the application was forwarded to a citizenship judge, who decided to approve the applicant's citizenship application on March 7, 2012. Subsequently, on April 13, 2012, a Minister's delegate granted a certificate of citizenship under subsection 5(1) of the CA, and the applicant was summoned to take the oath of Canadian citizenship on May 9, 2012.

[9] However, upon arriving at the airport in Montréal from Saudi Arabia on May 7, 2012, for the swearing-in ceremony, the applicant was questioned by an immigration officer under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. A 44(1) report was produced, which concluded that the applicant had not met his residency obligation as a permanent resident. During this exchange, the applicant stated, among other things, that he travels frequently and that he works for the Canadian company Almassa Group. However, he added that he also sat on the boards of directors of a number of companies in Saudi Arabia and owned a construction company in that country. In view of these statements, a removal order was issued against him.

[10] On the basis of this removal order, the applicant was advised that he would not be allowed to take the oath of Canadian citizenship under paragraph 5(1)(f) of the CA.
The applicant therefore appealed the removal order to the Immigration Appeal Division (IAD). The IAD allowed the removal order appeal on June 4, 2015, after the Minister gave his consent. As a result, the removal order was quashed, and the IAD declared that the applicant had not lost his permanent resident status.

[11] Following this IAD decision, the applicant wrote to the respondent to set a new date to take the oath of citizenship. However, between the granting of the citizenship certificate in 2012 and the IAD decision of June 2015, the SCCA received Royal Assent on June 19, 2014. This act amends the CA by attributing several new powers to the Minister and includes in particular transitional provisions subjecting these legislative amendments to all pending applications for citizenship, thus making these new powers retroactive and enforceable against applications for citizenship made before June 19, 2014, provided that they were not “finally disposed of before that day”.

[12] On October 2, 2015, in response to requests made by the applicant in June and September 2015, the respondent informed the applicant that the request to reopen would be examined. This examination again revealed the contradiction between the information contained in the affidavit of September 18, 2008, the citizenship application and the Residence Questionnaire regarding the applicant’s stays outside Canada. It also revealed the recent discovery of a press release from the Saudi company Savola Group, dated May 21, 2008. The press release identified the applicant as chairman of the company and announced a business agreement with the Al Muhaidab group, which had been concluded the previous day in Jeddah. The press release also included a photograph identifying the applicant at the meeting in Jeddah. The Residence Questionnaire and the citizenship application did not mention the Savola Group or a stay in Saudi Arabia on May 20, 2008. These new facts were not known to the citizenship judge or to the Minister’s delegate in 2012.

[13] In light of all this, these contradictions became a matter of concern for the respondent. Indeed, the respondent suspects that there the facts have been misrepresented since the passports submitted by the applicant do not contain any information regarding a stay outside Canada other than in Saudi Arabia, or a stay outside Canada on May 20, 2008.

[14] As a result, the applicant was summoned for an interview on February 16, 2016, to allow him to explain these contradictions. In the notice to appear, he was asked to bring all of his current or expired passports and travel documents in his possession. During the interview, he was asked several questions regarding these inconsistencies. However, the applicant did not answer the officer's questions, indicating that he preferred to answer the questions in writing. In addition, although he was required to bring all of his passports in his possession, the applicant stated that he did not bring them all. He notably omitted to bring the one containing the stays related to the contradictions which had been observed, explaining that this passport was currently "misplaced", but that it would be provided later.

[15] The applicant subsequently received a letter from the respondent, dated March 29, 2016, advising him of the existence of a report prepared by a citizenship officer. This report alleges that, under paragraph 22(1)(e.1) of the CA, the applicant had misrepresented material circumstances in his application for citizenship. This report also describes the respondent's concerns, and the letter invited the applicant to respond to the allegations within thirty (30) days and to submit any evidence to refute those allegations. Subsequently, the applicant was granted an additional thirty (30) days to respond in order to [TRANSLATION] "communicate with the

persons concerned in Saudi Arabia and obtain the translation of certain documents" required. On June 2, 2016, the applicant again requested thirty (30) days, which was denied.

[16] The applicant finally replied to the respondent's letter on June 29, 2016. In that letter, the applicant explained why the concerns regarding him were wrong, and he provided a supporting affidavit explaining the alleged inconsistencies. In the affidavit, he explained (1) that he was not present at the Savola Group meeting in Jeddah on May 20, 2008, and that the image used by the company came from the company's archives; and (2) that he wrote the date of January 9, 2008, by mistake in his citizenship application and his Residence Questionnaire instead of December 19, 2007. In addition, the applicant confirmed that he was indeed the chairman of the Saudi company Savola Group, but offered no explanation which could help understand the failure to mention it in his citizenship application or in his Residence Questionnaire. During the hearing before the Court, counsel for the applicant explained that the applicant did not include his role within the Savola Group in his citizenship application or in his Residence Questionnaire because, in his view, chairing a board of directors is not a job. However, it appears that the applicant noted that he was chairman of Almassa Group in Montréal.

[17] Moreover, in the affidavit, the applicant explained that his trips made during that period are not indicated in the passports filed with his application because they are in a passport that he no longer has in his possession. In this regard, the applicant explained that in January 2007, he entered Saudi Arabia on passport No E984440 and decided to replace it because it was old and worn out. He received a new passport (No. G793222) on January 7, 2007, which he declared

lost a few days later. He therefore received another passport (No. G794209) on January 13, 2007. But, a few days later, he found the second passport (G793222), which he attached to the third passport (G794209). However, the applicant noted that this third passport was damaged and that, unfortunately, some of the stays omitted by mistake from his citizenship application were in this third passport (G794209). At the very end of his letter, he therefore asked that the decision be reviewed in light of the new information, which made it possible to [TRANSLATION] "grant his application for citizenship".

[18] After considering this new information, the respondent informed the applicant on August 9, 2016, that the decision to refuse his citizenship application remained in effect. On August 24, 2016, the applicant filed an application for leave and for judicial review in the Federal Court concerning this refusal. The parties agreed to an out-of-court settlement whereby the respondent agreed to refer the citizenship application to another decision-maker for reconsideration. However, it was stated that this reconsideration was not a guarantee that the application would be accepted.

[19] On August 2, 2017, a new citizenship officer responsible for the file therefore sent the applicant a new request for copies of all his passports in his possession between 2006 and 2010. The new officer also requested all of his entry and exit documents for Saudi Arabia, Egypt, the United Arab Emirates and Lebanon during the same period, all within 30 days. The applicant was granted an additional 60 days to allow him to provide these documents, but was denied a second additional 30 days. In any event, he was still given until December 9, 2017, to respond to the request.

[20] Once again, on December 7, 2017, the applicant filed an application for leave and for judicial review in order to obtain a writ of prohibition declaring the request for additional information and evidence made under section 23.1 of the CA illegal and abusive. With that application for judicial review, the applicant also sought a writ of *mandamus* requiring that he be summoned to take the oath of citizenship. On June 13, 2018, Justice Shore dismissed that application for judicial review, finding that it was premature to assess the reasonableness of the Minister's requests under section 23.1 of the CA since it had not yet been decided by the citizenship officer. Justice Shore added that there was "serious doubt about certain erroneous information under paragraph 22(1)(e.1) of the CA, [and therefore] an officer may request additional information". Justice Shore also stated that "the delay cannot be attributed to the Minister or the officer", given that the applicant had not provided the required information (see *Almuhaidib v Canada (Citizenship and Immigration)*, 2018 FC 615 at paragraph 7 [*Almuhaidib* 2018]).

[21] Subsequently, on September 7, 2018, the citizenship officer sent a letter to the applicant asking him again to provide copies of his passports between 2006 and 2010, as well as the entry and exit documents for Saudi Arabia, Egypt, the United Arab Emirates and Lebanon during this period, all within 30 days.

[22] In response, on October 2, 2018, the applicant explained that he considered that his citizenship application had already been the subject of a "final disposition" under the transitional provisions in subsection 31(1) of the SCCA and that, as a result, the respondent did not have the legal authority to request additional information and evidence from him. He therefore asked to be

summoned [TRANSLATION] “to his citizenship ceremony for the presentation of his citizenship certificate”.

[23] On October 30, 2018, the respondent informed the applicant that his citizenship application was considered to have been abandoned under subparagraph 13.2(1)(a)(i) of the CA, because the documents requested on September 7, 2018, had still not been provided and no reason had been put forward for this failure, except to say that the applicant considered the request for documents to have been made without legal authorization. On November 16, 2018, the applicant filed an application for leave and for judicial review of the officer’s decision, which was allowed. This is the decision under review.

## III. Decision

[24] The impugned decision concluded that the application had been considered abandoned under subparagraph 13.2(1)(a)(i) of the CA, since the applicant had failed to provide the documents requested under subsection 23.1 of the CA within the prescribed time, without reasonable excuse. The officer divided the reasons for the decision into two parts.

[25] First, the citizenship officer concluded that the new provisions of the CA applied to the applicant’s application, despite the fact that this act was not in force when the applicant submitted his citizenship application in 2010. The officer noted that section 31 of the SCCA provides that sections 13.1 to 14 of the CA apply to applications that were filed before August 1, 2014, provided they have not been finally disposed of before that day. The officer clarified that the provisions of the CA, introduced through the SCCA, including the power to require

additional information and evidence under section 23.1 and to declare an application as abandoned under the section 13.2, apply to his citizenship application filed on August 12, 2010.

[26] Second, the officer concluded that the applicant had not provided a reasonable excuse for failing to provide the documents required by the Minister under subsection 23.1 of the CA. She noted that (1) the applicant had received several requests to provide copies of all passports in his possession between 2006 and 2010, as well as entry and exit documents for his trips to Saudi Arabia, Egypt, the United Arab Emirates and Lebanon; (2) the applicant had been granted, at his request and on multiple occasions, additional time to provide the required documents; (3) the applicant did not provide any of those requested documents; and (4) the applicant did not offer a valid explanation for why he was unable to provide the documents. The officer added that those documents were important for the assessment of the citizenship application and, not having received them from the applicant, she had no choice but to consider the application as abandoned.

## IV. Parties' submissions

[27] Let us therefore summarize the main arguments submitted by the parties.

### A. *Applicant's submissions*

[28] The applicant is of the opinion that the citizenship officer erred in her interpretation of the transitional provisions in section 31 of the SCCA. Consequently, she had no authority to request additional information pursuant to section 23.1 of the CA currently in force. Nor did she have the power to declare the applicant's citizenship application abandoned under

subparagraph 13.2(1)(a)(i) for failing to provide the required additional information and evidence, without reasonable excuse. For these reasons, the applicant asserts that his application for judicial review must be allowed.

[29] The applicant argues that the decision of the citizenship judge dated March 7, 2012, which approved his citizenship application and the granting of the citizenship certificate by a Minister's delegate on April 13, 2012, under subsection 5(1) of the CA, constitutes a final disposition of his citizenship application under subsection 31(1) of the SCCA. Consequently, since this so-called final disposition was made before the coming into force of paragraph 22(1)(e.1), section 23.1 and sections 13.1 and 13.2 of the CA, the applicant argues that the officer did not have the statutory authority to request additional information and evidence from him under section 23.1 in order to determine whether he was subject to the prohibition in paragraph 22(1)(e.1). According to the applicant, the officer also did not have the legal authority to declare his application abandoned under subparagraph 13.2(1)(a)(i).

[30] Furthermore, the applicant is of the opinion that if the respondent did not agree with the citizenship judge's decision, he should have appealed the citizenship judge's decision within 60 days as provided in section 14 of the CA in force in 2012. Since the respondent did not appeal within the required time, the applicant argues that his right to be summoned to take the oath of citizenship crystallized when the Minister's delegate granted the citizenship certificate, as well as by the effect of quashing his removal order. The applicant therefore contends that the respondent cannot continue to delay his application by asking him for additional information and evidence.

[31] The applicant adds that since the respondent had not availed himself of his right of appeal, the only recourse available to the Minister to refuse the swearing in of the applicant is the exercise of a residual discretion. However, the applicant argues that case law has noted that this residual discretion only applies in limited situations and that the facts of this case do not justify it. In support, the applicant cites *Stanizai v Canada (Citizenship and Immigration)*, 2014 FC 74 at paras 30–42 [*Stanizai*], where Justice Mactavish noted that the exception to the finality of the decision by a citizenship judge is only applicable when the Minister is informed that the conditions provided for by law have not been met, in particular because of material misrepresentations.

[32] The applicant states that this is not the case here, since the citizenship judge had the affidavit of September 18, 2008, before him and the applicant's failure to include his role as chairman of Savola Group in his citizenship application was reasonable because chairing a board is not a job. Indeed, the applicant submits that it is unreasonable to conclude that the transitional provisions contemplate this limited exception rather than the general principle of the finality of the citizenship judge's decision.

[33] In this regard, the applicant argues that an interpretation of the transitional provisions according to the modern and contextual approach required by the Supreme Court of Canada (SCC) in *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] SCR 27 [*Rizzo*] supports his position.

[34] On this point, the applicant submits that the plain and ordinary meaning of the words used by Parliament in the transitional provisions, in particular the words "finally disposed of",

imply the concept of a decision and not of a prohibition or a legal requirement. The applicant also argues that the phrase “finally disposed of” is consistent with the technical meaning developed by case law with regard to the finality of the citizenship judge’s decision.

[35] In addition, the applicant suggests that the interpretation which makes a citizenship application “finally disposed of” following the decision of the citizenship judge, which is followed by the granting of the citizenship certificate by the Minister’s delegate promotes the principle of consistency of laws. He clarifies that when reading the transitional provisions in the context of subsection 14(6) of the CA, which note that the decision appealed to Federal Court is “final”, it is clear that the interpretation of the transitional provisions proposed by the applicant is more consistent with the act as a whole.

[36] The applicant adds that the interpretation of the transitional provisions he is proposing is more consistent with the scheme of the act, the object of the act, and the intention of Parliament. In support, the applicant cites in particular the summary of the SCCA where Parliament notes its desire to expedite the processing of citizens’ applications and not to further delay those already pending.

[37] Finally, the applicant notes that the transitional provisions must be interpreted restrictively because of the presumption that a law is not retrospective. Citing *Tran v Canada (Public Safety and Emergency Preparedness)*, 2017 SCC 50 at paras 42 and 43, the applicant states that it is presumed that a legislative amendment protects acquired rights. Consequently, the applicant submits that the interpretation to the effect that the decision of the citizenship judge

followed by the granting of the citizenship certificate is considered to be a final disposition protects the applicant's acquired right to take the oath of citizenship.

[38] For these reasons, the applicant concludes that the citizenship officer's interpretation of the transitional provisions is not reasonable. Consequently, he asks that the Court declare that the applicant has the right to be summoned for "his" oath of citizenship ceremony. As for the declaration sought by the applicant, very few allegations have been submitted on this subject.

B. *Respondent's submissions*

[39] The respondent contends that the citizenship officer did not err in her interpretation of the transitional provisions since a citizenship application is only considered to be "finally disposed of" when the last stage of processing is finalized, that is, when the applicant takes an oath of Canadian citizenship.

[40] The respondent submits that the version of the CA that was in force in 2012 clearly stated that the oath of citizenship is the very last step in the processing of an application for citizenship. Subsection 12(3) specifies that "[a] certificate issued pursuant to this section does not take effect until the person to whom it is issued has complied with the requirements of this Act and the regulations respecting the oath of citizenship".

[41] Moreover, subsection 19(1) of the *Citizenship Regulations*, SOR/1993-246 [Regulations] which was in force in 2012, stated that "a person who has been granted citizenship under

subsection 5(1) of the Act shall take the oath of citizenship by swearing or solemnly affirming it before a citizenship judge".

[42] The respondent refers to several decisions which confirm that the oath of citizenship is a mandatory condition for becoming a Canadian citizen. In this regard, the decision of the Ontario Court of Appeal in *McAteer v Canada (Attorney General)*, 2014 ONCA 578 [*McAteer*] states in the first paragraph that, "[s]ubject to limited discretionary exceptions, s. 12(3) of the Act provides that a certificate of citizenship issued by the Minister of Citizenship and Immigration does not become effective until the oath is taken".

[43] The respondent suggests that this last step is not a mere formality that it must automatically accord when it grants a certificate of citizenship to an applicant. Thus, even if an applicant is granted the certificate under subsection 5(1) of the CA, he or she continues to bear the burden of demonstrating that he or she meets all the requirements of the CA until the time of taking the oath (*Zhao v Canada (Citizenship and Immigration)*, 2016 FC 207 [*Zhao*]).
For example, the reason the applicant had to appeal the removal order was that his application no longer met the requirements of subsection 5(1).

[44] The respondent also relies on *Khalil v Canada (Secretary of State)*, [1999] 4 FC 661 [*Khalil*] and *Stanizai* to demonstrate that the citizenship judge's decision is not the time when an application is "finally disposed of" under the CA in force in 2012, since the Minister retains residual discretion to reject an application for citizenship, in particular in cases where, as noted

in *Khalil*, “there has been a material misrepresentation, or some reasonable cause to believe that there was”. This discretion is also confirmed in *Stanizai* at paragraph 32.

[45] The respondent proposes a bilingual interpretation of the transitional provisions to justify them. Although the respondent admits that the oath of citizenship is not a “decision” as such, he argues that the English version of the transitional provisions excludes applications that have been “finally disposed of” from the application of the new provisions of the CA. The English version therefore does not imply a decision, but rather the timing of the final resolution of the application, which supports the interpretation of the citizenship officer.

[46] Finally, the respondent submits that an interpretation of the transitional provisions that is consistent with the SCCA as a whole confirms that the provisions apply only to applications where the oath of citizenship has already taken place. In this regard, section 19 of the SCCA amends paragraph 22(2)(f) of the CA to provide that an applicant cannot receive the oath of citizenship if, “directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act”. Consequently, in the respondent’s view, an interpretation of the transitional provisions which considers the decision of the citizenship judge and the granting of a citizenship certificate by a Minister’s delegate as being a final disposition is not consistent with the other provisions of the SCCA.

[47] In submitting that the transitional provisions apply to the applicant’s application for citizenship, the respondent argues that it was reasonable in the circumstances to declare his

application abandoned by the applicant under subparagraph 13.2(1)(a)(i) of the CA for failing to provide the additional information and evidence required by the respondent under section 23.1.

[48] Section 23.1 of the CA gives the Minister the statutory authority to request additional information and evidence to determine whether an applicant meets the requirements of the CA at any time before the oath is taken. In addition, subparagraph 13.2(1)(a)(i) allows the Minister to impose a consequence, namely the declaration of an application as being abandoned, if an applicant does not provide the information required to ensure compliance with the CA's requirements without reasonable excuse.

[49] In this case, the respondent submits that it has been requesting this additional information and evidence under section 23.1 since at least August 2017. However, the applicant did not provide any of the required information or documents or any excuse for not doing so. Those documents were requested in order to verify the inconsistencies in the citizenship application and the applicant's Residence Questionnaire, which were submitted in 2010 and 2011 respectively and which indicate that the applicant may have made material misrepresentations in relation to his stays outside Canada, an essential fact which could render the applicant ineligible to become a Canadian citizen. It was therefore reasonable for the citizenship officer to declare the application for citizenship abandoned under subparagraph 13.2(1)(a)(i).

## V. Issues

[50] In this case, the Court must answer two questions:

1. Did the citizenship officer err in deciding that an application for citizenship becomes “finally disposed of” under transitional provision 31(1) of the SCCA after the oath of citizenship is taken?

2. Did the officer err in declaring the applicant’s citizenship application abandoned under subparagraph 13.2(1)(a)(i) of the CA?

## VI. Analysis

[51] The key to resolving this dispute is the interpretation to be given to the transitional provisions of section 31 of the SCCA, in particular the meaning to be given to the phrases “décidé définitivement” and “finally disposed of”.

[52] This is because the issue at stake is whether the application for citizenship presented in August 2010 and the decisions made later during the process (the decision of the citizenship judge and that of the Minister’s delegate to grant the applicant a certificate of citizenship) are final and binding in nature and, consequently, whether citizenship has been acquired. If this is the case, the new legislative provisions (23.1 and 13.2(1)(a)(i)) applicable to citizenship applications, and which are referred to in subsection 31(1) of the SCCA, did not become enforceable against the applicant until May 28, 2015, and August 1, 2014, respectively. As a result, the citizenship officer would not have had the authority to request additional information under section 23.1, or to declare the citizenship application abandoned under subparagraph 13.2(1)(a)(i).

[53] On the other hand, if the taking of the oath of citizenship was required to obtain citizenship, then the application for citizenship was not decided definitively and, consequently,

the new provisions (23.1 and 13.2(1)(a)(i)) would have had the force of law and would have been effective against the applicant.

A. *Standard of judicial review*

[54] We must first determine the standard of review applicable to (1) the analysis of the citizenship officer's interpretation of the transitional provisions, and (2) her decision to declare the applicant's citizenship application as being abandoned under subparagraph 13.2(1)(a)(i). I am of the view that the standard of reasonableness applies to both issues.

[55] As a result, our inquiry must focus on whether the decision subject to judicial review has the requisite justification. We must also look at the appearance and intelligibility of the decision-making process. Finally, we must consider whether the decision belongs to the range of possible, acceptable outcomes (*Canada (Attorney General) v Heffel Gallery Limited*, 2019 FCA 82 at paras 45–57).

[56] With regard to the analysis of the citizenship officer's interpretation of the transitional provisions, it is essential to take into account the mandate of Immigration, Refugees and Citizenship Canada (IRCC). That said, it is recognized that the applicable standard of review is that of reasonableness.

[57] On this subject, and for the purposes of interpreting the transitional provisions (section 31 of the SCCA), Justice Gascon wrote the following in *Valenzuela v Canada (Citizenship and Immigration)*, 2016 FC 879 at paras 16–18:

> **[16]** There is no doubt that the *Strengthening Canadian Citizenship Act*, and the *Citizenship Act* that it modifies, are among the enabling statutes that CIC is mandated to administer and apply. However, since *Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association*, 2011 SCC 61, the Supreme Court of Canada has many times recalled that "when an administrative tribunal interprets or applies its home statute, there is a presumption that the standard of review applicable to its decision is reasonableness" (*Commission scolaire de Laval v. Syndicat de l'enseignement de la région de Laval*, 2016 SCC 8, at paragraph 32; *B010 v. Canada (Citizenship and Immigration)*, 2015 SCC 58, at paragraph 25; *Wilson v. British Columbia (Superintendent of Motor Vehicles)*, 2015 SCC 47, at paragraph 17; *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, 2015 SCC 45, at paragraph 28; *Tervita Corp. v. Canada (Commissioner of Competition)*, 2015 SCC 3, at paragraph 35).
>
> **[17]** Of course, this presumption is not unchallengeable. It can be overruled and the standard of correctness can be applied, in the presence of one of the factors first set out by the Supreme Court in *Dunsmuir v. New Brunswick*, 2008 SCC 9 [Dunsmuir], at paragraphs 43–64 and recently reiterated in *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, at paragraphs 46–48. Such is the case when a contextual analysis reveals a clear intent of Parliament not to protect the tribunal's authority with respect to certain issues; when several courts have concurrent and non-exclusive jurisdiction on a point of law; when an issue raised is a general question of law that is of central importance to the legal system as a whole and outside the area of expertise of the specialized administrative tribunal; or when a constitutional question is at play.
>
> **[18]** It is clear that none of these scenarios exist here and that the presumption established by *Alberta Teachers* is therefore not rebutted in this case. The question of interpretation that is raised by Mr. Valenzuela's application pertains to an Act that is closely linked to CIC's mandate and it is not among the limited range of questions for which *Dunsmuir* and its descendants indicate that the standard of correctness should be applied. The applicable standard of review is therefore that of reasonableness. According to this standard, the Court must show deference to CIC's decision.

[58] I agree with these reasons and conclude that the interpretation of the transitional provisions must be considered in light of the reasonableness standard. Having said that, I would

point out that with regard to the analysis of the statutory interpretation of the transitional provisions by the citizenship officer, the standard of reasonableness deserves to be applied more rigorously because of the brevity of the statutory analysis of the citizenship officer and of the case law concerning the rigorous application of the reasonableness standard in an immigration context. I quote from the summary of the case law on this point in *Vavilov v Canada (Citizenship and Immigration)*, 2017 FCA 132, where the Federal Court of Appeal noted at paras 37–39:

> **[37]** On issues of statutory interpretation in the immigration context, the Supreme Court recently has also been applying reasonableness in an exacting way. Not surprisingly, because of the presumption of reasonableness, it is acting under the reasonableness standard of review, but it assesses the administrative decision-maker's interpretation of a statutory provision closely, in fact sometimes in a manner that appears to be akin to correctness: see, *e.g.*, *Kanthasamy v. Canada (Citizenship and Immigration)*, 2015 SCC 61, [2015] 3 S.C.R. 909; *B010 v. Canada (Citizenship and Immigration)*, 2015 SCC 58, [2015] 3 S.C.R. 704; *Febles v. Canada (Citizenship and Immigration)*, 2014 SCC 68, [2014] 3 S.C.R. 431; *Ezokola v. Canada (Citizenship and Immigration)*, 2013 SCC 40, [2013] 2 S.C.R. 678. In fact, it has been a while since the Supreme Court has afforded a decision-maker in the immigration context much of a margin of appreciation on statutory interpretation issues.
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> **[38]** Further rendering the standard of review of less practical import in this case is the fact that we have before us little in the way of the reasoning of the Registrar. On the central statutory interpretation issue before us, the Registrar said nothing.
>
> **[39]** We can only assume the Registrar relied on an analyst's report that was provided. But, as we shall see, that report contains only one brief paragraph on the statutory interpretation issue, and a very limited one at that. In such circumstances, it is hard to give much deference to the decision; the concern is that we cannot be sure that the statutory interpretation issue was adequately considered. On some occasions like this, we have quashed an administrative decision because we cannot engage in reasonableness analysis or because we are concerned that administrative decision-making is being immunized from review: see, e.g., *Leahy v. Canada (Citizenship and Immigration)*, 2012 FCA 227, [2014] 1 F.C.R. 766; *Canada v. Kabul Farms Inc.*,

> 2016 FCA 143; and see the wider discussion of this point in *Tsleil-Waututh Nation v. Canada (Attorney General)*, 2017 FCA 128.

[59] With respect to the standard of review applicable to a declaration of abandonment under subparagraph 13.2(1)(a)(i), Justice Shore wrote in *Zhao* that the standard of reasonableness applies "to the determination of the Minister that the citizenship application was abandoned; and, as to whether the Minister provided adequate reasons" (paragraph 19). This position was confirmed by Justice Boswell in *Kamel v Canada (Citizenship and Immigration)*, 2017 FC 946 (paragraph 4) and by Justice Annis in *Saab v Canada (Citizenship and Immigration)*, 2018 FC 653 (paragraph 20).

[60] I agree with these reasons and conclude that the citizenship officer's decision to declare the applicant's citizenship application abandoned under subparagraph 13.2(1)(a)(i) must be analyzed according to the standard of reasonableness.

B. *Interpretation of transitional provisions*

[61] To determine whether the citizenship officer's interpretation of the transitional provisions was reasonable, given the brevity of the citizenship officer's reasons, I will conduct a four-part analysis. First, in order to properly understand the legislative framework in which the decision-making process took place, it is important to understand the CA as it was when the applicant applied for citizenship. Second, I will provide an overview of the principles of statutory interpretation as set out in case law. Third, I will interpret the language of the transitional provisions. To do this, I will conduct a bilingual analysis of their ordinary and grammatical meaning, their legislative intention according to a purposive analysis, and the legal context of the

citizenship applications to which they apply, while explaining the meaning of the oath of citizenship and the authority retained by the Minister before the taking of the oath of citizenship. Finally, I will briefly discuss the decision of the citizenship judge and the granting of the citizenship certificate.

[62] This analysis will allow me to confirm that the interpretation of the transitional provisions by the citizenship officer was reasonable and that they therefore do not exclude the applicant's application from the application of the new provisions of the CA included in the SCCA. Consequently, the Minister could request additional information and documentation in accordance with section 23.1 of the CA. He could also conclude that the application for citizenship was abandoned under subparagraph 13.2(1)(a)(i) of the CA, since the requested information and documents were not sent to him.

(1) Overview of relevant legislation and of citizenship application process upon filing and initial processing of citizenship application

[63] The CA in effect when the applicant applied for citizenship in August 2010, and when he was originally called to take the oath of citizenship in 2012, provided for a citizenship application process that included multiple steps and decisions.

[64] First, an applicant would make an application for citizenship under subsection 5(1) of the CA. Then, following a preliminary review of the application form, a citizenship officer would decide whether the applicant should also complete a Residence Questionnaire to clarify certain statements made in the initial application form, as was the case here.

[65] After receiving all the documents required by the CA and its regulations, the citizenship officer would review the application for citizenship to determine whether the applicant satisfied the requirements in subsection 5(1) of the CA and was not subject to any prohibition set out in the CA. Following this review, the citizenship officer would then decide whether the application should be referred to a citizenship judge, which was also the case for the applicant.

[66] Once the citizenship judge received the citizenship application, he or she would therefore have to decide whether the applicant met the criteria set out in the CA, including those in subsection 5(1). Based on the analysis of the citizenship application, the citizenship judge would decide to either reject or approve the application. Following this decision by the citizenship judge, the Minister would then have 60 days to appeal it to the Federal Court. The appeal would be based on the record as it stood before the citizenship judge. For the purposes of this case, there was no appeal from the citizenship judge's decision.

[67] Thereafter, if no appeal was filed, or if the Federal Court dismissed the Minister's appeal, the citizenship application would be sent to a Minister's delegate, who would grant a citizenship certificate to the applicant if he or she was of the opinion that the applicant still met the criteria set out in subsection 5(1) and was not subject to prohibitions set out in the CA.

[68] Finally, subsection 12(3) of the CA and subsection 19(1) of the Regulations provided that a person who was granted a certificate of citizenship under subsection 5(1) became a citizen, provided that they took the oath of citizenship, which was not the case here.

[69] In addition, between the granting of the citizenship certificate and the swearing-in ceremony, the CA at the time had some provisions prohibiting the swearing-in in certain cases. For example, an applicant could not take the oath if a removal order under paragraph 5(1)(f) was issued against him or her, or for reasons of national security under subsection 20(1), on grounds of criminality under subsection 22(1) and, under paragraph 22(1)(b), for having been charged with an offence under subsection 29(2), including for having committed material misrepresentations about an essential fact of the citizenship application.

[70] In the applicant's case, although the citizenship judge approved the application for citizenship and the Minister issued a certificate of citizenship, the fact remains that to date, the applicant has still not taken the oath of citizenship, let alone attended a citizenship ceremony presided over by a citizenship judge. In this regard, the applicant himself does not dispute that he is not yet a Canadian citizen since he requests to be summoned to take the oath of citizenship.

[71] On a return trip on May 7, 2012, to come take the oath of Canadian citizenship on May 9, 2012, an immigration officer at the airport issued a removal order against the applicant on the grounds that he had not demonstrated, on a balance of probabilities, that he had complied with his residency obligation under section 28 of the IRPA. According to paragraph 5(1)(f) of the CA in force on the date of the removal order, the Minister cannot grant citizenship if a removal order has been issued against the applicant. Therefore, on May 9, 2012, the date of the citizenship ceremony, the applicant did not meet the requirements to obtain citizenship and could not take the oath of citizenship. He appealed the decision to the IAD. It was not until June 4, 2015, that the IAD concluded, on consent of the parties, that the removal order should be quashed.

[72] In addition, since the filing of the citizenship application of August 12, 2010, and the IAD decision of June 4, 2015, significant changes to the CA have come into force because of the SCCA, which received Royal Assent on June 19, 2014. Other changes have since taken place.

[73] Let us now look at these various changes, while considering what impact, if any, they had on the applicant after the IAD's decision dated June 4, 2015. We have already seen that as of June 2015, the applicant had still not obtained Canadian citizenship.

[74] To properly answer the question, we must pay particular attention to the transitional provisions of the SCCA. Above all, we must consider whether the applicant's citizenship application was "décidé définitivement" or "finally disposed of" before the coming into force of the CA's new provisions. More specifically, it is a question of determining whether an application for citizenship is "décidé définitivement" or "finally disposed of" when the Minister grants citizenship following the decision of a citizenship judge, or if it is only when the applicant takes the oath of citizenship. This question is important in determining whether the statutory interpretation of the citizenship officer was reasonable and whether, by the same token, the Minister had the authority to require additional information under section 23.1 of the CA and declare the applicant's application abandoned under subparagraph 13.2(1)(a)(i) of the CA.

[75] In other words, if the citizenship officer erred and the oath of citizenship is just a formality, since it was the decision of the citizenship judge and the granting of the citizenship certificate that definitively granted citizenship, this therefore means that the respondent could no longer request additional information from the applicant or declare his application abandoned.

Conversely, if the citizenship judge's decision and the granting of the citizenship certificate did not give finality to an application for citizenship and the oath of citizenship was therefore, rather, the final step, the citizenship officer's interpretation of the transitional provisions was reasonable. Consequently, the respondent could apply the new provisions for the purposes of the applicant's claim.

(2) Overview of principles of statutory interpretation

[76] In this section, I will first set out some principles of statutory interpretation. Once this backdrop has been established, I will undertake a literal analysis of the transitional provisions in both official languages, followed by a purposive and contextual analysis of them to determine whether the citizenship officer's interpretation was reasonable.

[77] At the outset, let us establish some principles of legal interpretation which will guide our analysis of the provisions in question. The SCC noted in *Rizzo*, and very recently reconfirmed in *R v Penunsi*, 2019 SCC 39 at paragraph 36, and *R v Rafilovich*, 2019 SCC 51 at paragraph 97 [*Rafilovich*], that it favours a modern approach to legislative interpretation, which goes beyond a simple literal analysis of the ink on the page. Indeed, it teaches in *Rizzo* at paragraph 21 that "the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament".

[78] Professor Ruth Sullivan divides this method of interpretation favoured by the SCC in *Rizzo* into three parts (*Sullivan on the Construction of Statutes*, 6th ed, Toronto, LexisNexis, 2014).

[79] First, an analysis must be undertaken based on the ordinary meaning of the words used in the legislative provisions in question. As noted by the SCC in *Rizzo,* this step involves analyzing the words of a statute according to their "grammatical and ordinary sense" (paragraph 21).

[80] Second, the words of a statute must be analyzed according to legislative intent. As the SCC stated in *Rizzo,* this involves interpreting the statutory provisions in question according to the scheme of the act, the object of the act and the intention of Parliament (paragraph 21). In other words, the entire act must be analyzed to determine its objectives and the means designed to achieve these objectives. Recently, in *Rafilovich*, the SCC confirmed this approach by specifying that the objectives of an act must be analyzed together and to avoid fixating on one objective to the exclusion of others (paragraphs 29–31).

[81] Third, the words of an act are to be read in their entire context (*Rizzo,* paragraph 21). This includes in particular an analysis according to established legal standards.

[82] In *X (Re)*, 2014 FCA 249 at paragraph 71, the Federal Court of Appeal reiterated all these principles as follows:

> **[71]** Inherent in the contextual approach to statutory interpretation is the understanding that the grammatical and ordinary sense of a provision is not determinative of its meaning. A court must consider the total context of the provision to be interpreted "no matter how plain the disposition may seem upon initial reading" (*ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, 2006 SCC 4, [2006] 1 S.C.R. 140, at paragraph 48). From the text and this wider context the interpreting court aims to ascertain legislative intent, "[t]he most significant element of this analysis" (*R. v. Monney*, [1999] 1 S.C.R. 652, at paragraph 26).

[83] In addition, the principles applicable to bilingual statutory interpretation must be examined in this case. Justice Bastarache, writing on behalf of the SCC, clearly stated the principles of bilingual interpretation in *R v Daoust*, 2004 SCC 6 at paras 2730 [*Daoust*]:

> **[27]** There is, therefore, a specific procedure to be followed when interpreting bilingual statutes. The first step is to determine whether there is discordance. If the two versions are irreconcilable, we must rely on other principles: see *Côté*, *supra*, at p. 327. A purposive and contextual approach is favoured: see, for example, *Bell ExpressVu Limited Partnership v. Rex*, [2002] 2 S.C.R. 559, 2002 SCC 42, at para. 26; *Chieu v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 SCR 84, 2002 SCC 3, at para. 27; *R. v. Sharpe*, [2001] 1 S.C.R. 45, 2001 SCC 2, at para. 33.
>
> **[28]** We must determine whether there is an ambiguity, that is, whether one or both versions of the statute are "reasonably capable of more than one meaning": *Bell ExpressVu*, *supra*, at para. 29. If there is an ambiguity in one version but not the other, the two versions must be reconciled, that is, we must look for the meaning that is common to both versions: *Côté*, *supra*, at p. 327. The common meaning is the version that is plain and not ambiguous: *Côté*, *supra*, at p. 327; see *Goodyear Tire and Rubber Co. of Canada v. T. Eaton Co.*, [1956] S.C.R. 610 at p. 614; *Kwiatkowsky v. Minister of Employment and Immigration*, [1982] 2 S.C.R. 856, p. 863.
>
> **[29]** If neither version is ambiguous, or if they both are, the common meaning is normally the narrower version: *Gravel v. City of St-Léonar*d, [1978] 1 S.C.R. 660, at p. 669; *Pfizer Co. v. Deputy Minister of National Revenue For Customs and Excise*, [1977] 1 S.C.R. 456, at pp. 464-65. Professor Côté illustrates this point as follows, at p. 327:
>
> > There is a third possibility: one version may have a broader meaning than another, in which case the shared meaning is the more narrow of the two.
>
> **[30]** The second step is to determine whether the common or dominant meaning is, according to the ordinary rules of statutory interpretation, consistent with Parliament's intent: *Côté*, *supra*, at pp. 328-329. At this stage, the words of Lamer J. in *Slaight Communications Inc. v. Davidson*, [1989] 1 S.C.R. 1038, at p. 1071, are instructive:

> First of all, therefore, these two versions have to be reconciled if possible. To do this, an attempt must be made to get from the two versions of the provision the meaning common to them both and ascertain whether this appears to be consistent with the purpose and general scheme of the Code.

[84] Taking into account all of these guiding principles, let us now analyze the reasonableness of the citizenship officer's interpretation of the legislative provisions.

(3) Analysis of transitional provisions

a) *Analysis of terms used*

[85] For the purposes of this analysis, in order to fully understand the operation of the transitional provisions in section 31 of the SCCA, we must dissect their wording. Then, we must consider more specifically the wording of the expressions "décidé définitivement" and "finally disposed of".

(i) Interpretation of transitional provisions

[86] The transitional provisions in section 31 of the SCCA provide that certain citizenship applications still in the course of being processed are subject to the amendments made to the CA by the SCCA.

[87] Basically, subject to subsections 31(2) and 31(3), subsection 31(1) establishes a three-part test to determine whether the transitional provisions apply to a citizenship application made before the coming into force of new provisions. First, the application has to be made under subsection 5(1), 5(2), 5.1(1), 5.2(2), 5.1(3), 9(1) or 11(1) of the CA. Second, the application has

to have been filed before the day on which subsection 3(7) came into force, which is June 19, 2014. Third, it must not have been "finally disposed of" before that date.

[88] However, this effective date provided for in subsection 31(1) does not remain frozen in time. By order in council, the transitional provisions provide for the coming into force of certain provisions on other dates through subsections 31(2) and 31(3) of the SCCA, as well as through the amendments made to the SCCA by the *Protecting Canada from Terrorists Act*, SC 2015, c 9 [PCTA].

[89] In this regard, Justice Roussel clearly expressed the relationship between subsections 31(2) and 31(1) in *GPP v Canada (Citizenship and Immigration)*, 2018 FC 562 [*GPP* 2018], affirmed by the Federal Court of Appeal in *GPP v Canada (Citizenship and Immigration)*, 2019 FCA 71. Justice Roussel noted as follows at paragraph 31:

> **[31]** As for subsection 31(2), this provision governs the application of provisions that entered into force after June 19, 2014. It is provided that on the date on which section 11 of the *Strengthening Canadian Citizenship Act* enters into force, established by Order in Council to be August 1, 2014, the reference to subsection 3(7) contained in subsection 31(1) of the *Strengthening Canadian Citizenship Act* is replaced by a reference to this section 11. Therefore, once the necessary adaptations are made, the beginning of subsection 31(1) would read as follows as of August 1, 2014:
>
> > **31(1)** Subject to subsections (2) and (3) of the *Strengthening Canadian Citizenship Act*, an application that was made under subsection 5(1) of the *Citizenship Act* before August 1, 2014, the day on which section 11 of the *Strengthening Canadian Citizenship Act* comes into force, and was not finally disposed of before that day is to be dealt with and disposed of in accordance with . . . .

[90] It should also be noted that the PCTA adds to the transitional provisions of the SCCA. Indeed, subsection 11(1) of the PCTA adds subsection 31(2.1) to the SCCA, which stipulates that on the date of the coming into force of section 8 of the SCCA, the reference to section 11, under subsection 31(1), is replaced by a reference to section 8. Since section 8 of the SCCA came into force on May 28, 2015, by order in council, the beginning of subsection 31(1) would read as follows, from that date:

> **31(1)** Subject to subsections (2) and (3) of the *Strengthening Canadian Citizenship Act*, an application that was made under subsection 5(1) of the *Citizenship Act* before May 28, 2014, the day on which section 8 of the *Strengthening Canadian Citizenship Act* comes into force, and was not finally disposed of before that day is to be dealt with and disposed of in accordance with . . . .

[91] In light of the above, it is important to remember two things to understand the applicability of subparagraph 13.2(1)(a)(i) and section 23.1 to applications for citizenship referred to in subsection 31(1) of the SCCA.

[92] First, sections 13.1 and 13.2 of the CA, introduced by section 11 of the SCCA, apply to citizenship applications that have not been finally disposed of before August 1, 2014, owing to the change of the in-force date in subsection 31(1), caused by subsection 31(2), following the coming into force of section 11 of the SCCA. This is due to the fact that paragraph 31(1)(b) explicitly provides that sections 13.1 to 14 of the CA are enforceable against applications for citizenship referred to in subsection 31(1) on the in-force date set out in this subsection.

[93] Secondly, section 23.1 of the CA, in force since August 1, 2014, is applicable to citizenship applications that have not been finally disposed of before May 28, 2015.

Paragraph 31(1)(a) provides that on the day on which subsection 31(1) comes into force, the earlier version of the CA is applicable to citizenship applications referred to in subsection 31(1), subject to exceptions expressly provided in the transitional provisions. So, since section 23.1 came into force on the same date as section 11 of the SCCA, that is, August 1, 2014, and was not subject to an exception such as section 13.2, section 23.1 was not in the earlier version of the CA on the date of the coming into force in subsection 31(1) on August 1, 2014. It was only when section 8 of the SCCA came into force on May 28, 2015, which, in turn, amends the coming into force date in subsection 31(1), that section 23.1 was considered as being in the previous version of the CA, therefore making it applicable to applications under subsection 31(1).

[94] In summary, it was not until May 28, 2015, that the Minister had the power to require additional information or evidence under section 23.1 in the context of a citizenship application referred to in subsection 31(1), and therefore the power to declare an application abandoned for failing to provide this additional information or evidence under paragraph 13.2(1)(a).

[95] For the purposes of this case, we know that the citizenship application was filed on August 12, 2010, on the basis of subsection 5(1) of the CA. Therefore, it was filed before June 19, 2014, under subsection 5(1) of the CA, which satisfies two parts of the test. We have also seen that subparagraph 13.2(1)(a)(i) (abandonment of application) and section 23.1 (misrepresenting or withholding material circumstances) become applicable to any citizenship application that is not “finally disposed of” pursuant to subsection 31(1), on August 1, 2014, and May 28, 2015, respectively.

[96] Here, it is appropriate that I refer to Justice Roussel's analysis of these transitional provisions in *GPP* 2018. I would also like to echo her comment in paragraph 28 where she stated that this "Court acknowledges that the transitional provision poses interpretation issues. This is largely due to the fact that it is not static in time because it provides for a number of dates of entry into force. It is nonetheless the view of the Court that the interpretation proposed by the Minister is the correct one". I am in complete agreement with Justice Roussel. I would add that the CA deserves a complete revision, because after numerous amendments, it has become complex and difficult to read. It is unthinkable to expect a citizenship applicant to navigate this laborious legislative maze. For the average person, and to facilitate access to justice, it should be more understandable.

(ii) Meaning of "décidé définitivement" and "finally disposed of"

[97] Finally, what remains at stake in this case is the reasonableness of the meaning given to the expressions "décidé définitivement" and "finally disposed of" in subsection 31(1) by the citizenship officer. For our purposes, the interpretation of this expression determines whether the applicant is subject to the transitional provisions and, consequently, whether the citizenship officer had the power to request additional information and evidence in accordance with section 23.1 of the CA, and the power to declare the application as abandoned upon failure to provide the information and evidence in accordance with subparagraph 13.2(1)(a)(i) of the CA.

[98] As we have already seen, the parties offer different interpretations of the ordinary and grammatical meaning of the terms "décidé définitivement" and "finally disposed of".

To determine the meaning of these expressions, we have to ask ourselves what the text of the law meant by these wordings, in both French and English, and then see if there is a contradiction.

[99] The French text requires that the decision must be final to benefit from the exception. If I apply the definition from the Robert dictionary, ed 2009, the adjective “définitif” makes a decision [TRANSLATION] “[s]ettled once and for all; which does not change any more.” The English text requires that the decision must be final to benefit from the exception. The word “final” is defined by the Oxford Canadian Dictionary as follows: “[r]eached or designed to be reached as the outcome of a process or a series of actions and events” and “[a]llowing no further doubt or dispute”.

[100] As we can see, the two expressions share a common meaning between them. In both languages, the objective sought by Parliament is finality, an end or the culmination of a process. In other words, the transitional provisions refer to the moment that ends the citizenship application process, which is the oath of citizenship.

[101] This common meaning is, moreover, the least ambiguous and most restrictive interpretation within the meaning of *Daoust*, since it clearly refers to the last stage of an application for citizenship, the taking of the oath of citizenship. In contrast, a decision prior to the oath of citizenship, as the applicant suggests, could imply any one of the multiple decisions made in the course of an application for citizenship. The applicant argues that the citizenship judge’s decision was final and then goes on to argue that his application was final following the decision by the Minister’s delegate to grant the citizenship certificate. Having interpreted the

terms “décidé définitivement” and “finally disposed of” by drawing out a meaning common to them both, taking into account the literal and bilingual approach, I will now analyze the legislative intent of the law according to a purposive approach.

b) *Analysis of legislative intent*

[102] The analysis of the legislative intent of the SCCA, in accordance with a purposive approach, also confirms the reasonableness of the citizenship officer’s interpretation of the transitional provisions, according to which the transitional provisions refer to the moment the citizenship application process ends, that is, the taking of the oath of citizenship.

[103] The summary of the SCCA and the short title of the legislation (*Strengthening Canadian Citizenship Act*) demonstrate that the SCCA aims to give the Minister more power in the citizenship application process to enable him to better address cases involving security and fraud. In fact, the first sentence of the summary states the following:

> This enactment amends the *Citizenship Act* to, among other things, update eligibility requirements for Canadian citizenship, strengthen security and fraud provisions and amend provisions governing the processing of applications and the review of decisions.

[104] The summary goes on to add the following:

> Amendments to the security and fraud provisions include:
>
> . . .
>
> (d) requiring that an applicant for citizenship demonstrate, in one of Canada’s official languages, knowledge of Canada and of the responsibilities and privileges of citizenship;
>
> . . .

> Amendments to the provisions governing the processing of applications and the review of decisions include
>
> . . .
>
> (b) expanding the grounds and period for the suspension of applications and providing for the circumstances in which applications may be treated as abandoned;
>
> (c) limiting the role of citizenship judges in the decision-making process, subject to the Minister periodically exercising his or her power to continue the period of application of that limitation;
>
> . . .

[105] As these statements demonstrate, the summary clearly illustrates that the main purpose of the act was to give the Minister more discretion in the decision-making process, at the expense of the powers of the citizenship judge. The object of the act also included enabling the Minister to better identify material misrepresentations relating to essential facts related to an application for citizenship.

[106] I do not deny the applicant's argument that one of the purposes of the act was to expedite the processing of citizenship applications. On the other hand, when we analyze the object of the act as a whole and according to *Rafilovich*, it is clear that the object of the act is not to exclude applications that have not been finalized from the application of new powers in the CA to expedite the processing of applications. Rather, it is intended to allow the respondent to effectively reject lingering claims for security and fraud reasons.

[107] This is therefore not in line with an interpretation of the transitional provisions holding that an application for citizenship is finally disposed of by granting a citizenship certificate

following a decision by a citizenship judge, even if potential material misrepresentations are discovered thereafter.

[108] It seems to me that an interpretation of the transitional provisions giving the Minister more flexibility and discretion to investigate potential material misrepresentations up to the moment the oath of citizenship is administered aligns better with the purpose and scheme of this act than the interpretation that an application is final following the granting of a citizenship certificate. The latter interpretation would give the applicant an acquired right, thus transforming the taking of the oath of citizenship into a mere formality.

[109] In the same vein, the amendments made to the CA by the SCCA tangibly demonstrate the intention of Parliament as communicated in the summary, as well as the idea of the oath of citizenship as being the stage where an application for citizenship achieves finality. As an example, consider legislative provisions 3(2), 11, 19(2) and 19(3) which state the following:

| ***An Act to amend the Citizenship Act and to make consequential amendments to other Acts*, SC 2014, c 22** | ***Loi modifiant la Loi sur la citoyenneté et d'autres lois en conséquence*, LC 2014, ch 22** |
|---|---|
| **3. (2) Subsection 5(1.1) of the Act is replaced by the following:** | **3. (2) Le paragraphe 5(1.1) de la même loi est remplacé par ce qui suit :** |
| . . . | . . . |
| **Intention** | **Intention** |
| **(1.1)** For the purposes of paragraphs (1)(c.1) and 11(1)(d.1), the person's intention must be continuous from the date of his or her application until they have taken the oath of citizenship. | **(1.1)** Pour l'application des alinéas (1)c.1) et 11(1)d.1), l'intention de la personne doit être continue, de la date de la demande de citoyenneté jusqu'à ce que la personne prête le serment de citoyenneté. |

. . .

**11.** Section 13 of the Act is replaced by the following:

. . .

**13.2 (1)** The Minister may treat an application as abandoned

. . .

**(b)** in the case of an applicant who must take the oath of citizenship to become a citizen, if the applicant fails, without reasonable excuse, to appear and take the oath at the time and at the place — or at the time and by the means — specified in an invitation from the Minister.

. . .

**19. (2)** Subsection 22(1) of the Act is amended by striking out "or" at the end of paragraph (e) and by replacing paragraph (f) with the following

[**22. (1)** Despite anything in this Act, a person shall not be granted citizenship under subsection 5(1), (2) or (4) or 11(1) or take the oath of citizenship]

**(e.1)** if the person directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act;

. . .

**19. (3)** Subsection 22(2) of the Act is replaced by the following:

. . .

**11.** L'article 13 de la même loi est remplacé par ce qui suit :

. . .

**13.2 (1)** Le ministre peut considérer une demande comme abandonnée dans les cas suivants :

. . .

**b)** le demandeur omet, sans excuse légitime, de se présenter aux moment et lieu — ou au moment et par le moyen — fixés et de prêter le serment alors qu'il a été invité à le faire par le ministre et qu'il est tenu de le faire pour avoir la qualité de citoyen.

. . .

**19. (2)** L'alinéa 22(1)f) de la même loi est remplacé par ce qui suit :

[**22. (1)** Malgré les autres dispositions de la présente loi, nul ne peut recevoir la citoyenneté au titre des paragraphes 5(1), (2) ou (4) ou 11(1) ni prêter le serment de citoyenneté :]

**e.1)** si, directement ou indirectement, il fait une présentation erronée sur un fait essentiel quant à un objet pertinent ou omet de révéler un tel fait, entraînant ou risquant d'entraîner ainsi une erreur dans l'application de la présente loi;

. . .

**19. (3)** Le paragraphe 22(2) de la même loi est remplacé par ce qui suit :

| | |
|---|---|
| . . . | . . . |
| **Prohibition — taking oath** | **Interdiction — serment** |
| **(6)** Despite anything in this Act, a person shall not take the oath of citizenship if they never met or they no longer meet the requirements of this Act for the grant of citizenship. | **(6)** Malgré les autres dispositions de la présente loi, nul ne peut prêter le serment de citoyenneté s'il ne satisfait plus ou n'a jamais satisfait aux exigences de la présente loi pour l'attribution de la citoyenneté. |

[110] In light of these amendments provided for in the SCCA, it would therefore be reasonable to interpret the transitional provisions included in this same act so that they comply with Parliament's intention to grant the Minister the power to terminate a citizenship application right up to the taking of the oath of citizenship, for fraud or security reasons. In other words, the new powers granted to the Minister in the SCCA confirm the interpretation of the citizenship officer, which means that an application for citizenship is not considered to be finally disposed of until after taking the oath of citizenship. However, before concluding on this subject, I would like to discuss the legal meaning of the oath of citizenship, the decision of the citizenship judge, and the granting of the citizenship certificate by the Minister, to ensure that this interpretation of the transitional provisions aligns with their legal context.

c) *Analysis of legal context*

[111] A contextual analysis of the main relevant decision-making stages according to their legal nature when the applicant's citizenship application was filed, before the entry into force of the SCCA, confirms the reasonableness of the citizenship officer's interpretation that a citizenship application submitted before June 19, 2014, was not final until after the oath of citizenship was

taken. More specifically, I will undertake an analysis of the legal nature of the oath of citizenship, the decision of the citizenship judge, and the granting of the citizenship certificate by a Minister's delegate.

[112] We have seen that the CA in force at the time the applicant was granted a certificate of citizenship by a Minister's delegate clearly stipulated that the oath of citizenship was necessary to become a citizen. Indeed, subsection 12(3) of this statute provides as follows:

| ***Citizenship Act*, RSC, 1985, c C-29** | ***Loi sur la citoyenneté*, LRC (1985), ch C-29** |
|---|---|
| **When effective** | **Entrée en vigueur** |
| **12. (3)** A certificate issued pursuant to this section does not take effect until the person to whom it is issued has complied with the requirements of this Act and the regulations respecting the oath of citizenship. | **12. (3)** Le certificat délivré en application du présent article ne prend effet qu'en tant que l'intéressé s'est conformé aux dispositions de la présente loi et aux règlements régissant la prestation du serment de citoyenneté. |

[113] Furthermore, section 24 of the CA in force at the time, stipulated:

| ***Citizenship Act*, RSC, 1985, c C-29** | ***Loi sur la citoyenneté*, LRC (1985), ch C-29** |
|---|---|
| **Requirement to take oath of citizenship** | **Obligation de prêter le serment de citoyenneté** |
| **24.** Where a person is required under this Act to take the oath of citizenship, the person shall swear or affirm in the form set out in the schedule and in accordance with the regulations. | **24.** Le serment de citoyenneté est prêté dans les termes prescrits par l'annexe et selon les modalités fixées par règlement. |

[114] Furthermore, subsection 19(1) of the Regulations in force at the time stated that "a person who has been granted citizenship under subsection 5(1) of the Act shall take the oath of citizenship by swearing or solemnly affirming it before a citizenship judge". It is even specified

in paragraph 17(c) of the Regulations that during the swearing-in ceremony, the citizenship judge must “personally present certificates of citizenship, unless otherwise directed by the Minister”.

[115] In addition to the oath of citizenship requirements included in the CA and its regulations in force when the applicant was granted a certificate of citizenship by a Minister’s delegate, the case law clearly states that an oath of citizenship is not a formality, but rather a fundamental requirement for obtaining citizenship.

[116] The Ontario Court of Appeal confirmed this principle in *McAteer*, noting as follows:

> **[1]** Permanent residents of Canada over 14 years old who wish to become Canadian citizens are required to swear an oath or make an affirmation: see *Citizenship Act*, R.S.C. 1985, c. C-29 (the ”Act”) s. 3(1)(c). Subject to limited discretionary exceptions, s. 12(3) of the Act provides that a certificate of citizenship issued by the Minister of Citizenship and Immigration does not become effective until the oath is taken.

[117] The necessity of the oath of citizenship appears to be presumed by the SCC in *Benner v Canada (Secretary of State)*, [1997] 1 SCR 358, and explicitly confirmed by Justice Collier, formerly a judge of this Court, in *Heib (Re)*, [1979] 104 DLR (3d) 422 at paragraph 29:

> **[29]** In summary then, on the main issue, I affirm the decision of the Citizenship Judge. The appellant must take the oath in the form in which it appears. Failing the taking of the oath, he cannot become a citizen of Canada as provided in ss. 3(1) of the new Act.

[118] In Canada, the essential character of the oath of citizenship traces back years and years. This oath was basically the result of a uniquely Canadian historic compromise. In this regard, the

Ontario Court of Appeal reveals a historic chapter to the oath of citizenship in Canada in *McAteer*, at paragraph 104:

> **[104]** The requirement of an oath to the Queen as a condition for those wishing to become citizens is a well-established tradition of this country. It dates back to the historical compromise of the *Quebec Act*, *supra*, in which the British Crown introduced a secular oath to the Queen to secure the loyalty of the French Canadians by recognizing their freedom to practise their religion. The intent behind the introduction of a secular oath was to create a religious-neutral way of permitting individuals to become citizens. In so doing, the new oath permitted French Canadians to vote and participate in public life in a way that was previously precluded because of the religious nature of the oath that had existed until that time . . . .

[119] In summary, an oath of citizenship is not a mere formality, but rather the crystallization of what an applicant for citizenship becomes. It is at this precise moment that he or she is recognized as a Canadian citizen with all the benefits attached to it. The oath of citizenship is the expression of the applicant's adhesion to a social contract, a commitment by the citizenship applicant to the country he or she has chosen. With this oath, the applicant demonstrates loyalty and commitment to Canada. The Federal Court of Appeal in *Roach v Canada (Minister of State for Multiculturalism and Citizenship)*, [1994] 2 FC 406 stated the following on this subject:

> Of course, the total consequences of the swearing or affirming of these twenty-four words (as opposed to their nominal burden) are not at all trivial. Not only are the consequences as a whole not contrary to the Constitution, but it would hardly be too much to say that they are the Constitution. They express a solemn intention to adhere to the symbolic keystone of the Canadian Constitution as it has been and is, thus pledging an acceptance of the whole of our Constitution and national life. The appellant can hardly be heard to complain that, in order to become a Canadian citizen, he has to express agreement with the fundamental structure of our country as it is.

[120] Although the applicant acknowledges that taking the oath of citizenship is the last essential step in becoming a citizen, and he has clearly demonstrated his desire to take it, he pleads that the granting of the citizenship certificate by a Minister's delegate following the decision of the citizenship judge ensured that he acquired a right to be summoned to take the oath of citizenship. Consequently, he submits that his application became final when the Minister's delegate granted him the citizenship certificate, making him not subject to the transitional provisions.

[121] Because of the analysis of the relevant terms, the intention of Parliament, and the overall legal context in which the application for citizenship took place, I do not agree with this interpretation whereby the oath of citizenship is only a formality and one obtains an absolute right to take the oath once a certificate of citizenship has been granted. It seems to me that participation in the whole process ultimately leading to Canadian citizenship is not a right, and that it is rather a privilege to be able to take the oath at the end of such a process. Applicants for Canadian citizenship must, until the end of the process, demonstrate on request the truth of all the facts on which their applications are based and agree to comply with the CA during the entire process.

[122] On this subject, the jurisprudence is clear. Justice Leblanc specifically articulated this position in *Canada (Citizenship and Immigration) v Pereira*, 2014 FC 574 at paragraph 21:

> As it has been affirmed on many occasions by this Court, Canadian citizenship is a privilege that ought not to be granted lightly and the onus is on citizenship applicants to establish, on a standard of balance of probabilities, through sufficient, consistent and credible evidence, that they meet the various statutory requirements in order to be granted that privilege (*Canada (Minister of Citizenship and*

> *Immigration) v Elzubair*, 2010 FC 298 at paras 19 and 21; *Canada (Minister of Citizenship and Immigration) v El Bousserghini*, 2012 FC 88 at para 19; *Canada (Minister of Citizenship and Immigration) v Dhaliwal*, 2008, FC 797 at para 26; *Abbas v Canada (Minister of Citizenship and Immigration)*, 2011 FC 145 at para 8; *F.H. v McDougall*, 2008 SCC 53, [2008] 3 SCR 41).

[123] This approach is also confirmed by other decisions, including *Zhao*, at paragraph 20, and *Dowhopoluk v Martin et al*, [1972] 1 OR 311, where it was expressed as follows:

> There is one fundamental principle of law which is of paramount importance to the present case and on which both counsel agreed, undoubtedly because it is so universally recognized, not only by common law countries but by all nations and from time immemorial. That principle is that citizenship is not a right but a privilege.

[124] I also come to the conclusion that an applicant does not acquire an absolute right to citizenship following the granting of a certificate of citizenship by the Minister's delegate because of (1) the Minister's power under the CA (in force in 2012) to prohibit the taking of the oath in certain circumstances; and (2) a limited power of refusal allowing inquiries to be made if the facts submitted in the application for citizenship merit further explanation and clarification. As we will see, case law has recognized this power of refusal. Paragraph 22(1)(e.1) and section 23.1 simply crystallize this power of refusal.

[125] First, the CA (in force in 2012) included several provisions stipulating the circumstances in which the Minister could prohibit the taking of the oath of citizenship following the granting of the citizenship certificate, thereby demonstrating that the granting of citizenship is not the moment when a citizenship application becomes final. For example, as noted above, the CA (in force in 2012) barred applicants from taking the oath of citizenship if they were under a

removal order (paragraph 5(1)(f)), or if they were prohibited on national security or criminal grounds (paragraphs 19(2)(a) and 19(2)(b)) or on certain other grounds related to criminal activity and offences (section 22).

[126] Second, as briefly mentioned above, the case law recognizes that the Minister has a discretionary power to withhold citizenship from an applicant following the decision of the citizenship judge in cases where the Minister has been informed that the conditions of the CA may not have been met. This is covered in depth by the Federal Court of Appeal in *Khalil*, where it noted as follows:

> . . . The Minister cannot arbitrarily withhold citizenship from someone who has qualified for it. Where the Minister has information that the requirements of the Act have not been met, however, she may delay the conferral of citizenship until it is determined that all the conditions precedent have been met. To hold otherwise would be to force the Minister to confer citizenship on a person who may have gained entry to Canada by misrepresentation only to have to commence proceedings immediately afterwards to revoke it. While the Minister has no discretion to arbitrarily refuse to grant citizenship to a person who meets the requirements, the Minister must retain some authority to refuse to grant citizenship where it is discovered before citizenship is granted that there has been a material misrepresentation, or some reasonable cause to believe that there was.

[127] The existence of this power was, moreover, recognized by Justice Mactavish in *Stanizai* (paras 30–37), where she clarified that the power applies when possible material misrepresentations of which the citizenship judge was unaware have been discovered. Here, it is important to note that the Minister's power to refuse was established by the courts well before the recent coming into force of section 23.1, paragraph 22(1)(e.1) and section 13.2, provided that there is no final disposition of the application.

[128] It is therefore erroneous to suggest that, according to the overall legal context before the SCCA came into force, the decision of the citizenship judge and the granting of the citizenship certificate gave a finality to the process of applying for citizenship, thus granting an acquired right to citizenship even before taking the oath.

[129] In light of all this, a modern interpretation of the transitional provisions according to the ordinary and grammatical meaning of the terms used, the intention of Parliament and the overall legal context confirm the reasonableness of the statutory interpretation by the citizenship officer. This interpretation means that the transitional provisions aim to make the new provisions of the CA apply to any application where the oath of citizenship has not yet been taken.

(4) Application of transitional provisions to applicant

[130] The facts of this case show that the application for citizenship was still pending.

[131] The applicant failed to note in his citizenship application and in his Residence Questionnaire that he was chairman of the Savola Group, a company based in Saudi Arabia. These new facts were revealed during his interview with an immigration officer at Pierre Elliott Trudeau Airport in Montréal on May 7, 2012, two days before the citizenship swearing-in ceremony. In addition, in 2015, a news release from the Savola Group was found, in which a press conference announcing a business agreement on May 20, 2008, in Jeddah, was mentioned. The news release also included a photograph in which the applicant can be seen with other people. The citizenship judge and the Minister’s delegate did not have this information when the citizenship certificate was granted. No trip dated May 20, 2008, was declared in the application

or in the Residence Questionnaire. Thus, following the reopening of the file in 2015, there was a need to make sure that the new facts did not contradict the May 2010 application for citizenship.

[132] These new facts call into question the days of residence in Canada disclosed in the initial application. So, taking into account all of these facts, it was appropriate to investigate.

[133] Taking into account the entire analysis, the decision of the citizenship judge and the granting of the citizenship certificate are essential decisions in the citizenship application process. Without these decisions, the oath of citizenship cannot be administered. However, they only take full effect when the oath is taken. Consequently, the citizenship officer's interpretation of the transitional provisions was reasonable according the facts of the case.

[134] Let us now turn to the reasonableness of the citizenship officer's decision regarding the declaration of abandonment under subparagraph 13.2(1)(a)(i) of the CA.

C. *Reasonableness of declaration of abandonment under subparagraph 13.2(1)(a)(i) of CA*

[135] After numerous requests for documents which should have been proactively disclosed by the applicant, as well as several additional time limits granted, the applicant had not provided any of the documents required and did not submit any justification for this failure, despite the fact that there were discoveries of omissions and contradictions raised in his file following the granting of the citizenship certificate. As a result, I am of the opinion that the citizenship officer's decision to declare the applicant's citizenship application abandoned under subparagraph 13.2(1)(a)(i) must be analyzed according to the standard of reasonableness.

[136] For the purpose of studying the reasonableness of the declaration of abandonment, the citizenship officer established her jurisdiction to abandon the application for citizenship on the basis of subparagraph 13.2(1)(a)(i) of the CA. This provision came into force on August 1, 2014, and on that date, it became applicable to citizenship applications filed earlier that had not been finally disposed of under section 31 of the SCCA.

[137] The citizenship officer also referred to section 23.1 of the CA to justify her request for additional information and evidence. This section came into force on August 1, 2014, but was only applicable to applications for citizenship under subsection 31(1) as of May 28, 2015.
In 2017, during the re-examination of the file, subparagraph 13.2(1)(a)(i) (abandonment of application) and section 23.1 of the CA (request for information and documents) had force of law according to the analysis presented above.

[138] The applicant is of the opinion that these provisions are not enforceable against him and that he has an acquired right to take the oath of citizenship since the citizenship judge approved his application and the citizenship certificate was granted in 2012. As seen above, the citizenship officer's interpretation of the transitional provisions was reasonable, and the interpretation suggested by the applicant does not fit with my understanding of the applicable provisions in similar situations.

[139] The citizenship applicant was asked for additional information and disclosures following his August 2010 citizenship application. He provided information, but questions remained following the discovery of the 2015 news release. In October 2018, in response to these

questions and through his lawyer, the applicant claimed the equivalent of an acquired right and demanded to be allowed to take the oath of citizenship, while specifying that he was not required to [TRANSLATION] "provide documents for the purpose of proving [his] physical presence in Canada". Consequently, the applicant filed the application for leave of the judicial review of the decision dated October 30, 2018, which concluded that the application had been abandoned because the applicant, without a reasonable excuse, had not responded to the request for information.

[140] In such circumstances, particularly in light of the history of the file, it was reasonable for the citizenship officer to conclude that the applicant had abandoned his application, as provided in subparagraph 13.2(1)(a)(i) of the CA. No information was supplied, and no valid excuse was given following the request of September 7, 2018. As mentioned above, subparagraph 13.2(1)(a)(i) and its sub-subsections were in force on August 1, 2014, and applicable to the applicant's citizenship application, which was filed on August 12, 2010.

[141] The present case is analogous to *Zhao*, where the applicant also refused to provide the required additional information and evidence because he considered that his application for citizenship was complete and did not require any other documentary evidence.

[142] In *Zhao*, Justice Shore concluded that Canadian citizenship is a privilege and that it is up to applicants to demonstrate that they meet the requirements to become Canadian citizens. Since there was a discrepancy with the dates in Mr. Zhao's passports, it was considered reasonable to ask him for additional evidence. Because of his failure to provide reasonable justification for

failing to provide the required additional evidence, the decision to declare the application abandoned under subparagraph 13.2(1)(a)(i) was found to be reasonable.

[143] In the case before me, it was reasonable for the citizenship officer to require additional information and evidence because of what appeared to be contradictions and omissions at the very heart of the applicant's application.

[144] Despite this failure to provide the required additional documentation, the applicant did not give any explanation. As Justice Shore stated in *Zhao* at paragraph 27, the applicant "provided an excuse as to why he believes that he should not have to submit any further documents and ordered the Minister to grant him Canadian citizenship".

[145] In *Almuhaidib* 2018 at paragraph 7, which dealt with the applicant's application for *mandamus* and *writ of prohibition*, Justice Shore, after examining the record, stated that there was "serious doubt about certain erroneous information under paragraph 22(1)(e.1) of the CA, [and consequently] an officer may request additional information authorized in section 23.1 of the CA". In the present case, when the decision to abandon the application was made in 2018, the passports required by the citizenship officer had still not been provided. These facts were intended to ensure that the citizenship application and the Residence Questionnaire were factually justified.

[146] For the same reasons, I conclude that the citizenship officer's decision is reasonable.

D. *Certified question*

[147] As for the questions that I am asked to certify, the applicant submits three (3):

> [TRANSLATION]
>
> 1. Does the citizenship judge's decision approving the application for citizenship, followed by the granting of citizenship by the Minister's delegate, who does not thereby exercise his right of appeal, make that application "finally disposed of" within the meaning of section 31 of the *Strengthening Canadian Citizenship Act*, 2014 SC c 22?
>
> 2. Do sections 13.1 and 23.1 of the *Citizenship Act*, RSC 1985 c C-29 (CA), allow the Minister to suspend an application for citizenship and to request additional information relating to possible material misrepresentations under paragraph 22(1)(e.1) of the CA for which there has been no determination, in respect of an application for citizenship made before August 1, 2014, which was finally disposed of before that day?
>
> 3. Does the Federal Court have the authority under section 18.1(3) of the *Federal Courts Act*, RSC 1985 c F-7, to declare that an applicant has the right to be summoned to the citizenship swearing-in ceremony in accordance with the CA and to assume the role of the administrative decision-maker when there is only one possible interpretation and outcome that is legally permissible and any other interpretation or solution would be unreasonable or incorrect?

[148] The applicant explains that the first question is in fact one of the questions he had submitted in this application for judicial review. As for the second, the applicant acknowledges that this is a rewording of the first question. As for the third question, he considers it to be [TRANSLATION] "a serious question of general importance". He is seeking relief requesting the Court to make an order summoning the applicant for a swearing-in ceremony under subsection 18.1(3) of the *Federal Courts Act*, RSC 1985, c F- 7.

[149] The respondent, in principle, agrees with the spirit of the first question, but suggests that it should be certified according to the following wording:

> [TRANSLATION]
> Is an application for citizenship that was made under subsection 5(1) of the *Citizenship Act*, RSC 1985, c. C-29, as it read before the coming into force of the *Act to amend the Citizenship Act and to make consequential amendments to other Acts*, SC 2014, c 22, and that received a positive decision from the citizenship judge and a positive grant from the Minister's delegate, an application that has been "finally disposed of" within the meaning of subsection 31(1) of the SCCA?

[150] With regard to the second question proposed by the applicant, the respondent notes that there was never any question of suspending the application for citizenship under section 13.1 of the CA and that, consequently, it is neither relevant nor determinative. For this reason, it should not be certified.

[151] On the third proposed question, the respondent objects to its certification since granting such a conclusion could ignore the "prohibitions" that the CA provides for in subsections 22(1), 22(6). Therefore, there is not just one reasonable outcome. The relief sought, namely to order the swearing-in at a citizenship ceremony, is not the obvious solution in such circumstances. Moreover, in any event, the applicant, in both his written and oral submissions, only briefly mentions the argument; consequently, the respondent did not make any representations on this subject.

[152] As a brief reminder, it is settled case law that a judge of the Federal Court certifies a question provided that the question

1. transcends the interests of the immediate parties to the litigation;

2. contemplates an issue of broad significance or general importance; and

3. is dispositive of the appeal (see *Liyanagamage v Canada (Minister of Citizenship and Immigration)*, (1994) 176 NR 4, [1994] FCJ No 1637 (FCA) and *Canada (Citizenship and Immigration) v Nilam*, 2017 FCA 44 at paragraph 2).

[153] With these principles in mind, I find that the content of the second question is encompassed by the first question. As for the third, it was barely addressed, and the conclusion I come to makes it moot. In any case, it is not general in scope and is in fact totally personalized to the facts relating to the applicant.

[154] Now, the first question as reformulated by the respondent may be certified. The subject is general in scope, transcends the interests of the parties to the litigation, raises questions having important consequences on the whole procedure for applying for citizenship and is dispositive for the purposes of the appeal. On this last point, the conclusion to which I come on the merits of the case also justifies that I certify the question as reformulated.

[155] I will therefore certify the question as proposed by the respondent.

## VII. Conclusion

[156] Before concluding, I would like to add this: the new powers granted to the Minister must be used in a way that does not create continuing uncertainty. The Minister must consider citizenship applications with speed and transparency. The new powers should not be used to

unduly delay the progress of applications. In this case, new facts were discovered in the course of the application process. Had these new facts been known to the respondent before the citizenship judge's decision or before the citizenship certificate was granted, the Minister could not have raised them afterwards. The new facts discovered as of 2015 are what justify the requests for additional information, as well as the questions regarding the application for citizenship dated August 12, 2010.

[157] For the above reasons, the application for judicial review is dismissed, and I certify the question as formulated by the respondent. No costs are sought, so none are awarded.

## JUDGMENT

**FOR THESE REASONS, THE COURT ORDERS AS FOLLOWS:**

1. The application for judicial review is dismissed.

2. The Court certifies the following question:

> "Is an application for citizenship that was made under subsection 5(1) of the *Citizenship Act*, RSC 1985, c. C-29, as it read before the coming into force of the *Act to amend the Citizenship Act and to make consequential amendments to other Acts*, SC 2014, c 22, and that received a positive decision from the citizenship judge and a positive grant from the Minister's delegate, an application that has been "finally disposed of" within the meaning of subsection 31(1) of the SCCA?"

3. Without costs.

"Simon Noël"

Judge

## ANNEX A

[1] The following legislative provisions of the CA (in force between April 17, 2009, and February 5, 2014) are relevant for answering the above questions of law:

| | |
|---|---|
| ***Citizenship Act*, RSC, 1985, c C-29** | ***Loi sur la citoyenneté*, LRC (1985), ch C-29** |
| **Grant of citizenship** | **Attribution de la citoyenneté** |
| **5. (1)** The Minister shall grant citizenship to any person who | **5. (1)** Le ministre attribue la citoyenneté à toute personne qui, à la fois : |
| **(a)** makes application for citizenship; | **a)** en fait la demande; |
| **(b)** is eighteen years of age or over; | **b)** est âgée d'au moins dix-huit ans; |
| **(c)** is a permanent resident within the meaning of subsection 2(1) of the *Immigration and Refugee Protection Act*, and has, within the four years immediately preceding the date of his or her application, accumulated at least three years of residence in Canada calculated in the following manner: | **c)** est un résident permanent au sens du paragraphe 2(1) de la *Loi sur l'immigration et la protection des réfugiés* et a, dans les quatre ans qui ont précédé la date de sa demande, résidé au Canada pendant au moins trois ans en tout, la durée de sa résidence étant calculée de la manière suivante : |
| **(i)** for every day during which the person was resident in Canada before his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one-half of a day of residence, and | **(i)** un demi-jour pour chaque jour de résidence au Canada avant son admission à titre de résident permanent, |
| **(ii)** for every day during which the person was resident in Canada after his lawful admission to Canada for permanent residence the person shall be deemed to have accumulated one day of residence; | **(ii)** un jour pour chaque jour de résidence au Canada après son admission à titre de résident permanent; |
| **(d)** has an adequate knowledge of one of the official languages of Canada; | **d)** a une connaissance suffisante de l'une des langues officielles du Canada; |

**(e)** has an adequate knowledge of Canada and of the responsibilities and privileges of citizenship; and

**(f)** is not under a removal order and is not the subject of a declaration by the Governor in Council made pursuant to section 20.

. . .

**Certificate of Citizenship**

**Application for certificate of citizenship**

**12. (1)** Subject to any regulations made under paragraph 27(i), the Minister shall issue a certificate of citizenship to any citizen who has made application therefor.

**Issue of certificate**

**(2)** When an application under section 5 or 5.1 or subsection 11(1) is approved, the Minister shall issue a certificate of citizenship to the applicant.

**When effective**

**(3)** A certificate issued pursuant to this section does not take effect until the person to whom it is issued has complied with the requirements of this Act and the regulations respecting the oath of citizenship.

. . .

**Consideration by citizenship judge**

**14. (1)** An application for

**(a)** a grant of citizenship under subsection 5(1) or (5),

**e)** a une connaissance suffisante du Canada et des responsabilités et avantages conférés par la citoyenneté;

**f)** n'est pas sous le coup d'une mesure de renvoi et n'est pas visée par une déclaration du gouverneur en conseil faite en application de l'article 20.

. . .

**Certificat de citoyenneté**

**Demandes émanant de citoyens**

**12. (1)** Sous réserve des règlements d'application de l'alinéa 27i), le ministre délivre un certificat de citoyenneté aux citoyens qui en font la demande.

**Délivrance aux nouveaux citoyens**

**(2)** Le ministre délivre un certificat de citoyenneté aux personnes dont la demande présentée au titre des articles 5 ou 5.1 ou du paragraphe 11(1) a été approuvée.

**Entrée en vigueur**

**(3)** Le certificat délivré en application du présent article ne prend effet qu'en tant que l'intéressé s'est conformé aux dispositions de la présente loi et aux règlements régissant la prestation du serment de citoyenneté.

. . .

**Examen par un juge de la citoyenneté**

**14. (1)** Dans les soixante jours de sa saisine, le juge de la citoyenneté statue sur la conformité — avec les dispositions applicables en l'espèce de la présente loi et de ses règlements — des demandes déposées en vue de :

**a)** l'attribution de la citoyenneté, au titre des paragraphes 5(1) ou (5);

**(b)** [Repealed, 2008, c. 14, s. 10]

**(c)** a renunciation of citizenship under subsection 9(1), or

**(d)** a resumption of citizenship under subsection 11(1)

shall be considered by a citizenship judge who shall, within sixty days of the day the application was referred to the judge, determine whether or not the person who made the application meets the requirements of this Act and the regulations with respect to the application.

**b)** [Abrogé, 2008, ch. 14, art. 10]

**c)** la répudiation de la citoyenneté, au titre du paragraphe 9(1);

**d)** la réintégration dans la citoyenneté, au titre du paragraphe 11(1).

. . .

. . .

**Appeal**

**(5)** The Minister or the applicant may appeal to the Court from the decision of the citizenship judge under subsection (2) by filing a notice of appeal in the Registry of the Court within sixty days after the day on which

**(a)** the citizenship judge approved the application under subsection (2); or

**(b)** notice was mailed or otherwise given under subsection (3) with respect to the application.

**Appel**

**(5)** Le ministre et le demandeur peuvent interjeter appel de la décision du juge de la citoyenneté en déposant un avis d'appel au greffe de la Cour dans les soixante jours suivant la date, selon le cas :

**a)** de l'approbation de la demande;

**b)** de la communication, par courrier ou tout autre moyen, de la décision de rejet.

**Decision final**

**(6)** A decision of the Court pursuant to an appeal made under subsection (5) is, subject to section 20, final and, notwithstanding any other Act of Parliament, no appeal lies therefrom.

**Caractère définitif de la décision**

**(6)** La décision de la Cour rendue sur l'appel prévu au paragraphe (5) est, sous réserve de l'article 20, définitive et, par dérogation à toute autre loi fédérale, non susceptible d'appel.

. . .

. . .

**Report to Review Committee**

**19. (2)** Where the Minister is of the opinion that a person should not be granted citizenship

**Renvoi au comité de surveillance**

**19. (2)** Le ministre peut, en lui adressant un rapport à cet effet, saisir le comité de

under section 5 or subsection 11(1) or administered the oath of citizenship or be issued a certificate of renunciation under section 9 because there are reasonable grounds to believe that the person will engage in activity

surveillance des cas où il est d'avis que l'intéressé devrait se voir refuser l'attribution de citoyenneté prévue à l'article 5 ou au paragraphe 11(1), ou la délivrance du certificat de répudiation prévu à l'article 9, ou encore la prestation du serment de citoyenneté, parce qu'il existe des motifs raisonnables de croire qu'il se livrera à des activités qui :

> **(a)** that constitutes a threat to the security of Canada, or
>
> **(b)** that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of any offence that may be punishable under any Act of Parliament by way of indictment,
>
> the Minister may make a report to the Review Committee.

> **a)** soit constituent des menaces envers la sécurité du Canada;
>
> **b)** soit font partie d'un plan d'activités criminelles organisées par plusieurs personnes agissant de concert en vue de la perpétration d'une infraction punissable par voie de mise en accusation aux termes d'une loi fédérale.

. . .

. . .

**Declaration by the Governor in Council in matters of security**

**20. (1)** Notwithstanding anything in this Act, a person shall not be granted citizenship under section 5 or subsection 11(1) or administered the oath of citizenship or be issued a certificate of renunciation under section 9 where, after considering the report made under subsection 19(6) by the Review Committee or the person appointed under subsection 19.1(1), the Governor in Council declares that there are reasonable grounds to believe that the person with respect to whom the report was made will engage in an activity described in paragraph 19(2)(a) or (b).

**Déclaration du gouverneur en conseil en matière de sécurité**

**20. (1)** Malgré les autres dispositions de la présente loi, le gouverneur en conseil peut empêcher l'attribution de la citoyenneté demandée au titre de l'article 5 ou du paragraphe 11(1), la délivrance du certificat de répudiation visé à l'article 9 ou la prestation du serment de citoyenneté en déclarant, après avoir étudié le rapport fait en vertu du paragraphe 19(6) par le comité de surveillance ou la personne nommée au titre du paragraphe 19.1(1), qu'il existe des motifs raisonnables de croire que la personne visée dans ce rapport se livrera à des activités mentionnées aux alinéas 19(2)a) ou b).

. . .

. . .

**Prohibition**

**22. (1)** Despite anything in this Act, a person shall not be granted citizenship under subsection 5(1), (2) or (4) or 11(1) or take the oath of citizenship

**(a)** while the person is, pursuant to any enactment in force in Canada,

**(i)** under a probation order,

**(ii)** a paroled inmate, or

**(iii)** confined in or is an inmate of any penitentiary, jail, reformatory or prison;

**(b)** while the person is charged with, on trial for or subject to or a party to an appeal relating to an offence under subsection 29(2) or (3) or an indictable offence under any Act of Parliament, other than an offence that is designated as a contravention under the *Contraventions Act*;

**(c)** while the person is under investigation by the Minister of Justice, the Royal Canadian Mounted Police or the Canadian Security Intelligence Service for, or is charged with, on trial for, subject to or a party to an appeal relating to, an offence under any of sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*;

**(d)** if the person has been convicted of an offence under any of sections 4 to 7 of the *Crimes Against Humanity and War Crimes Act*;

**Interdiction**

**22. (1)** Malgré les autres dispositions de la présente loi, nul ne peut recevoir la citoyenneté au titre des paragraphes 5(1), (2) ou (4) ou 11(1) ni prêter le serment de citoyenneté :

**a)** pendant la période où, en application d'une disposition législative en vigueur au Canada :

**(i)** il est sous le coup d'une ordonnance de probation,

**(ii)** il bénéficie d'une libération conditionnelle,

**(iii)** il est détenu dans un pénitencier, une prison ou une maison de correction;

**b)** tant qu'il est inculpé pour une infraction prévue aux paragraphes 29(2) ou (3) ou pour un acte criminel prévu par une loi fédérale, autre qu'une infraction qualifiée de contravention en vertu de la *Loi sur les contraventions*, et ce, jusqu'à la date d'épuisement des voies de recours;

**c)** tant qu'il fait l'objet d'une enquête menée par le ministre de la Justice, la Gendarmerie royale du Canada ou le Service canadien du renseignement de sécurité, relativement à une infraction visée à l'un des articles 4 à 7 de la *Loi sur les crimes contre l'humanité et les crimes de guerre*, ou tant qu'il est inculpé pour une telle infraction et ce, jusqu'à la date d'épuisement des voies de recours;

**d)** s'il a été déclaré coupable d'une infraction visée à l'un des articles 4 à 7 de la *Loi sur les crimes contre l'humanité et les crimes de guerre*;

**(e)** if the person has not obtained the authorization to return to Canada required under subsection 52(1) of the *Immigration and Refugee Protection Act*; or

**(f)** if, during the five years immediately preceding the person's application, the person ceased to be a citizen pursuant to subsection 10(1).

**e)** s'il n'a pas obtenu l'autorisation requise préalablement à son retour au Canada par le paragraphe 52(1) de la *Loi sur l'immigration et la protection des réfugiés*;

**f)** si, au cours des cinq années qui précèdent sa demande, il a cessé d'être citoyen en application du paragraphe 10(1).

. . .

. . .

**Requirement to take oath of citizenship**

2**4.** Where a person is required under this Act to take the oath of citizenship, the person shall swear or affirm in the form set out in the schedule and in accordance with the regulations.

**Obligation de prêter le serment de citoyenneté**

**24.** Le serment de citoyenneté est prêté dans les termes prescrits par l'annexe et selon les modalités fixées par règlement.

. . .

. . .

**Offences and punishment**

**29. (2)** A person who

**(a)** for any of the purposes of this Act makes any false representation, commits fraud or knowingly conceals any material circumstances,

**(b)** obtains or uses a certificate of another person in order to personate that other person,

**(c)** knowingly permits his certificate to be used by another person to personate himself, or

**Infractions et peines**

**29. (2)** Commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, une amende maximale de mille dollars et un emprisonnement maximal d'un an, ou l'une de ces peines, quiconque :

**a)** dans le cadre de la présente loi, fait une fausse déclaration, commet une fraude ou dissimule intentionnellement des faits essentiels;

**b)** obtient ou utilise le certificat d'une autre personne en vue de se faire passer pour elle;

**c)** permet sciemment que son certificat soit utilisé par une autre personne pour se faire passer pour lui;

**(d)** traffics in certificates or has in his possession any certificate for the purpose of trafficking,

. . .

**SCHEDULE**

***(Section 24)***

**OATH OR AFFIRMATION OF CITIZENSHIP**

I swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Canada, Her Heirs and Successors, and that I will faithfully observe the laws of Canada and fulfil my duties as a Canadian citizen.

**d)** fait le trafic de certificats ou en a en sa possession à cette intention.

. . .

**ANNEXE**

***(article 24)***

**SERMENT DE CITOYENNETÉ**

Je jure fidélité et sincère allégeance à Sa Majesté la Reine Elizabeth Deux, Reine du Canada, à ses héritiers et successeurs et je jure d'observer fidèlement les lois du Canada et de remplir loyalement mes obligations de citoyen canadien.

**AFFIRMATION SOLENNELLE**

J'affirme solennellement que je serai fidèle et porterai sincère allégeance à Sa Majesté la Reine Elizabeth Deux, Reine du Canada, à ses héritiers et successeurs, que j'observerai fidèlement les lois du Canada et que je remplirai loyalement mes obligations de citoyen canadien.

[2] The following legislative provisions of the SCCA (received Royal Assent on June 19, 2014) are relevant for answering the above questions of law:

***An Act to amend the Citizenship Act and to make consequential amendments to other Acts*, SC 2014, c 22**
Assented to 2014-06-19

**SUMMARY**

This enactment amends the *Citizenship Act* to, among other things, update eligibility requirements for Canadian citizenship, strengthen security and fraud provisions and

***Loi modifiant la Loi sur la citoyenneté et d'autres lois en conséquence*, LC 2014, ch 22**
Sanctionnée 2014-06-19

**SOMMAIRE**

Le texte modifie la *Loi sur la citoyenneté* pour notamment y mettre à jour les conditions d'admissibilité en vue d'obtenir la citoyenneté canadienne, renforcer les dispositions touchant

amend provisions governing the processing of applications and the review of decisions.

Amendments to the eligibility requirements include

**(a)** clarifying the meaning of being resident in Canada;

**(b)** modifying the period during which a permanent resident must reside in Canada before they may apply for citizenship;

**(c)** expediting access to citizenship for persons who are serving in, or have served in, the Canadian Armed Forces;

**(d)** requiring that an applicant for citizenship demonstrate, in one of Canada's official languages, knowledge of Canada and of the responsibilities and privileges of citizenship;

**(e)** specifying the age as of which an applicant for citizenship must demonstrate the knowledge referred to in paragraph (d) and must demonstrate an adequate knowledge of one of Canada's official languages;

**(f)** requiring that an applicant meet any applicable requirement under the *Income Tax Act* to file a return of income;

**(g)** conferring citizenship on certain individuals and their descendants who may not have acquired citizenship under prior legislation;

**(h)** extending an exception to the first-generation limit to citizenship by descent to children born to or adopted abroad by

la sécurité et la fraude et modifier les dispositions régissant l'examen des demandes et la révision des décisions.

Les modifications apportées aux conditions d'admissibilité visent notamment :

**a)** à clarifier le sens de résidence au Canada;

**b)** à modifier la période pendant laquelle un résident permanent doit habiter au Canada avant de pouvoir présenter une demande de citoyenneté;

**c)** à offrir un accès accéléré à la citoyenneté aux personnes qui servent ou qui ont servi dans les Forces armées canadiennes;

**d)** à exiger de l'auteur d'une demande de citoyenneté qu'il démontre, dans l'une des langues officielles du Canada, une connaissance du Canada et des responsabilités et avantages conférés par la citoyenneté;

**e)** à prévoir l'âge à compter duquel l'exigence mentionnée à l'alinéa d) et celle d'avoir une connaissance suffisante de l'une des langues officielles s'appliquent à l'auteur d'une demande de citoyenneté;

**f)** à exiger qu'un demandeur remplisse les exigences applicables prévues par la *Loi de l'impôt sur le revenu* de présenter des déclarations de revenus;

**g)** à conférer la citoyenneté à certaines personnes et à leurs descendants qui pourraient ne pas l'avoir obtenue en vertu de la législation antérieure;

**h)** à prolonger l'exception à la limite de transmission de la citoyenneté à la première génération aux enfants nés ou adoptés à l'étranger par des parents qui

parents who were themselves born to or adopted abroad by Crown servants; and

**(i)** requiring, for a grant of citizenship for an adopted person, that the adoption not have circumvented international adoption law.

Amendments to the security and fraud provisions include

**(a)** expanding the prohibition against granting citizenship to include persons who are charged outside Canada for an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament or who are serving a sentence outside Canada for such an offence;

**(b)** expanding the prohibition against granting citizenship to include persons who, while they were permanent residents, engaged in certain actions contrary to the national interest of Canada, and permanently barring those persons from acquiring citizenship;

**(c)** aligning the grounds related to security and organized criminality on which a person may be denied citizenship with those grounds in the *Immigration and Refugee Protection Act* and extending the period during which a person is barred from acquiring citizenship on that basis;

**(d)** expanding the prohibition against granting citizenship to include persons who, in the course of their application, misrepresent material facts and

sont eux-mêmes nés ou ont été adoptés à l'étranger par des fonctionnaires de la Couronne;

**i)** à exiger, lorsque l'attribution de la citoyenneté vise une personne adoptée, que l'adoption n'ait pas contourné le droit applicable aux adoptions internationales.

Les modifications apportées aux dispositions sur la sécurité et la fraude visent notamment :

**a)** à élargir la portée de l'interdiction de recevoir la citoyenneté aux personnes inculpées à l'étranger pour une infraction qui, si elle avait été commise au Canada, constituerait un acte criminel prévu sous le régime d'une loi fédérale ou aux personnes purgeant une peine à l'étranger pour une telle infraction;

**b)** à élargir la portée de l'interdiction de recevoir la citoyenneté aux personnes qui, alors qu'elles étaient des résidents permanents, ont commis des gestes particuliers contraires à l'intérêt national du Canada, et à interdire définitivement à ces personnes d'obtenir la citoyenneté;

**c)** à harmoniser les motifs relatifs à la sécurité et à la criminalité organisée pour lesquels une personne peut se voir refuser la citoyenneté avec ceux prévus dans la *Loi sur l'immigration et la protection des réfugiés* à cet égard et à prolonger la période durant laquelle la citoyenneté peut être refusée sur ces motifs;

**d)** à élargir la portée de l'interdiction de recevoir la citoyenneté aux personnes qui, pendant le traitement de leur demande, font de fausses déclarations relativement à des faits essentiels ainsi qu'à interdire la présentation de

prohibiting new applications by those persons for a specified period;

**(e)** increasing the period during which a person is barred from applying for citizenship after having been convicted of certain offences;

**(f)** increasing the maximum penalties for offences related to citizenship, including fraud and trafficking in documents of citizenship;

**(g)** providing for the regulation of citizenship consultants;

**(h)** establishing a hybrid model for revoking a person's citizenship in which the Minister will decide the majority of cases and the Federal Court will decide the cases related to inadmissibility based on security grounds, on grounds of violating human or international rights or on grounds of organized criminality;

**(i)** increasing the period during which a person is barred from applying for citizenship after their citizenship has been revoked;

**(j)** providing for the revocation of citizenship of dual citizens who, while they were Canadian citizens, engaged in certain actions contrary to the national interest of Canada, and permanently barring these individuals from reacquiring citizenship; and

**(k)** authorizing regulations to be made respecting the disclosure of information.

nouvelles demandes par ces personnes durant une période donnée;

**e)** à prolonger la période durant laquelle une personne ne peut présenter de nouveau la demande de citoyenneté après avoir été condamnée pour certaines infractions;

**f)** à accroître le maximum des peines pour des infractions relatives à la citoyenneté, notamment pour la fraude et le trafic de documents de citoyenneté;

**g)** à mettre en place un régime réglementaire visant les consultants en citoyenneté;

**h)** à établir un modèle hybride pour la révocation de la citoyenneté d'une personne en vertu duquel la majorité des cas relèveront du ministre, alors que les cas liés à une interdiction de territoire pour raison de sécurité, pour atteinte aux droits humains ou internationaux ou pour criminalité organisée relèveront de la Cour fédérale;

**i)** à accroître la période durant laquelle une personne ne peut présenter de demande de citoyenneté après que sa citoyenneté a été révoquée;

**j)** à prévoir la révocation de la citoyenneté des personnes ayant la double citoyenneté et qui, alors qu'elles étaient des citoyens canadiens, ont commis des gestes particuliers contraires à l'intérêt national du Canada, et à interdire définitivement à ces personnes d'être réintégrées dans la citoyenneté;

**k)** à autoriser la prise de règlements en matière de communication de renseignements.

Amendments to the provisions governing the processing of applications and the review of decisions include

**(a)** requiring that an application must be complete to be accepted for processing;

**(b)** expanding the grounds and period for the suspension of applications and providing for the circumstances in which applications may be treated as abandoned;

**(c)** limiting the role of citizenship judges in the decision-making process, subject to the Minister periodically exercising his or her power to continue the period of application of that limitation;

**(d)** giving the Minister the power to make regulations concerning the making and processing of applications;

**(e)** providing for the judicial review of any matter under the Act and permitting, in certain circumstances, further appeals to the Federal Court of Appeal; and

**(f)** transferring to the Minister the discretionary power to grant citizenship in special cases.

Finally, the enactment makes consequential amendments to the *Federal Courts Act and the Immigration and Refugee Protection Act*.

Short title

**1.** This Act may be cited as the *Strengthening Canadian Citizenship Act*.

**11. Section 13 of the Act is replaced by the following:**

Les modifications apportées aux dispositions sur l'examen des demandes et la révision des décisions visent notamment :

**a)** à prévoir que toute demande doit être complète afin d'être reçue aux fins d'examen;

**b)** à élargir les cas où l'examen d'une demande peut être suspendu et à modifier la durée de la suspension, ainsi qu'à prévoir les cas où une demande peut être considérée comme abandonnée;

**c)** à restreindre le rôle des juges de la citoyenneté dans le processus décisionnel sous réserve de l'exercice périodique par le ministre de son pouvoir de prolonger la période d'application de la restriction;

**d)** à accorder au ministre le pouvoir de prendre des règlements concernant la présentation et l'examen des demandes;

**e)** à mettre en place un régime de contrôle judiciaire de toute question relevant de l'application de la loi, et à permettre, dans certaines circonstances, l'appel à la Cour d'appel fédérale;

**f)** à transférer au ministre le pouvoir discrétionnaire d'attribuer la citoyenneté dans des cas particuliers.

Enfin, le texte apporte des modifications corrélatives à la *Loi sur les Cours fédérales et à la Loi sur l'immigration et la protection des réfugiés*.

Titre abrégé

**1.** *Loi renforçant la citoyenneté canadienne*.

**11. L'article 13 de la même loi est remplacé par ce qui suit :**

**Applications**

**13.** An application is to be accepted for processing under this Act only if all of the following conditions are satisfied:

**(a)** the application is made in the form and manner and at the place required under this Act;

**(b)** it includes the information required under this Act;

**(c)** it is accompanied by any supporting evidence and fees required under this Act.

**Suspension of processing**

**13.1** The Minister may suspend the processing of an application for as long as is necessary to receive

**(a)** any information or evidence or the results of any investigation or inquiry for the purpose of ascertaining whether the applicant meets the requirements under this Act relating to the application, whether the applicant should be the subject of an admissibility hearing or a removal order under the *Immigration and Refugee Protection Act* or whether section 20 or 22 applies with respect to the applicant; and

**(b)** in the case of an applicant who is a permanent resident and who is the subject of an admissibility hearing under the *Immigration and Refugee Protection Act*, the determination as to whether a removal order is to be made against the applicant.

**Demandes**

**13.** Les demandes ne sont reçues aux fins d'examen au titre de la présente loi que si les conditions ci-après sont réunies :

**a)** elles sont présentées selon les modalités, en la forme et au lieu prévus sous le régime de la présente loi;

**b)** elles contiennent les renseignements prévus sous le régime de la présente loi;

**c)** elles sont accompagnées des éléments de preuve à fournir à leur appui et des droits à acquitter à leur égard prévus sous le régime de la présente loi.

**Suspension de la procédure d'examen**

**13.1** Le ministre peut suspendre, pendant la période nécessaire, la procédure d'examen d'une demande :

**a)** dans l'attente de renseignements ou d'éléments de preuve ou des résultats d'une enquête, afin d'établir si le demandeur remplit, à l'égard de la demande, les conditions prévues sous le régime de la présente loi, si celui-ci devrait faire l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés* ou d'une mesure de renvoi au titre de cette loi, ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;

**b)** dans le cas d'un demandeur qui est un résident permanent qui a fait l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés*, dans l'attente de la décision sur la question de savoir si une mesure de renvoi devrait être prise contre celui-ci.

**Abandonment of application**

**13.2 (1)** The Minister may treat an application as abandoned

**(a)** if the applicant fails, without reasonable excuse, when required by the Minister under section 23.1,

**(i)** in the case where the Minister requires additional information or evidence without requiring an appearance, to provide the additional information or evidence by the date specified, or

**(ii)** in the case where the Minister requires an appearance for the purpose of providing additional information or evidence, to appear at the time and at the place — or at the time and by the means — specified or to provide the additional information or evidence at his or her appearance; or

**(b)** in the case of an applicant who must take the oath of citizenship to become a citizen, if the applicant fails, without reasonable excuse, to appear and take the oath at the time and at the place — or at the time and by the means — specified in an invitation from the Minister.

**Effect of abandonment**

**(2)** If the Minister treats an application as abandoned, no further action is to be taken with respect to it.

**19. (2)** Subsection 22(1) of the Act is amended by striking out "or" at the end of paragraph (e) and by replacing paragraph (f) with the following:

[**22. (1)** Despite anything in this Act, a person shall not be granted citizenship under

**Abandon de la demande**

**13.2 (1)** Le ministre peut considérer une demande comme abandonnée dans les cas suivants :

**a)** le demandeur omet, sans excuse légitime, alors que le ministre l'exige au titre de l'article 23.1 :

**(i)** de fournir, au plus tard à la date précisée, les renseignements ou les éléments de preuve supplémentaires, lorsqu'il n'est pas tenu de comparaître pour les présenter,

**(ii)** de comparaître aux moment et lieu — ou au moment et par le moyen — fixés, ou de fournir les renseignements ou les éléments de preuve supplémentaires lors de sa comparution, lorsqu'il est tenu de comparaître pour les présenter;

**b)** le demandeur omet, sans excuse légitime, de se présenter aux moment et lieu — ou au moment et par le moyen — fixés et de prêter le serment alors qu'il a été invité à le faire par le ministre et qu'il est tenu de le faire pour avoir la qualité de citoyen.

**Effet de l'abandon**

**(2)** Il n'est donné suite à aucune demande considérée comme abandonnée par le ministre.

**19. (2)** L'alinéa 22(1)f) de la même loi est remplacé par ce qui suit :

[**22. (1)** Malgré les autres dispositions de la présente loi, nul ne peut recevoir la citoyenneté

subsection 5(1), (2) or (4) or 11(1) or take the oath of citizenship:]

**(e.1)** if the person directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act;

**(e.2)** if, during the five years immediately before the person's application, the person was prohibited from being granted citizenship or taking the oath of citizenship under paragraph (e.1);

**(f)** if, during the 10 years immediately before the person's application, the person ceased to be a citizen under paragraph 10(1)(a), as it read immediately before the coming into force of section 8 of the *Strengthening Canadian Citizenship Act*, or under subsection 10(1) or paragraph 10.1(3)(a); or

**(g)** if the person's citizenship has been revoked under subsection 10(2) or paragraph 10.1(3)(b).

**19. (3) Subsection 22(2) of the Act is replaced by the following: . . .**

**Prohibition — taking oath**

**(6)** Despite anything in this Act, a person shall not take the oath of citizenship if they never met or they no longer meet the requirements of this Act for the grant of citizenship.

**22.** The Act is amended by adding the following after section 23:

au titre des paragraphes 5(1), (2) ou (4) ou 11(1) ni prêter 1e serment de citoyenneté :]

**e.1)** si, directement ou indirectement, il fait une présentation erronée sur un fait essentiel quant à un objet pertinent ou omet de révéler un tel fait, entraînant ou risquant d'entraîner ainsi une erreur dans l'application de la présente loi;

**e.2)** si, au cours des cinq années qui précèdent sa demande, il n'a pu recevoir la citoyenneté ou prêter le serment de citoyenneté en vertu de l'alinéa e.1);

**f)** si, au cours des dix années qui précèdent sa demande, il a cessé d'être citoyen en vertu d'un décret pris au titre de l'alinéa 10(1)a), dans sa version antérieure à l'entrée en vigueur de l'article 8 de la *Loi renforçant la citoyenneté canadienne*, ou en application du paragraphe 10(1) ou de l'alinéa 10.1(3)a);

**g)** si sa citoyenneté a été révoquée au titre du paragraphe 10(2) ou de l'alinéa 10.1(3)b).

**19. (3) Le paragraphe 22(2) de la même loi est remplacé par ce qui suit : . . .**

**Interdiction — serment**

**(6)** Malgré les autres dispositions de la présente loi, nul ne peut prêter le serment de citoyenneté s'il ne satisfait plus ou n'a jamais satisfait aux exigences de la présente loi pour l'attribution de la citoyenneté.

**22.** La même loi est modifiée par adjonction, après l'article 23, de ce qui suit :

**Additional information, evidence or appearance**

**23.1** The Minister may require an applicant to provide any additional information or evidence relevant to his or her application, specifying the date by which it is required. For that purpose, the Minister may require the applicant to appear in person or by any means of telecommunication to be examined before the Minister or before a citizenship judge, specifying the time and the place — or the time and the means — for the appearance.

**Autres renseignements, éléments de preuve et comparution**

**23.1** Le ministre peut exiger que le demandeur fournisse des renseignements ou des éléments de preuve supplémentaires se rapportant à la demande et préciser la date limite pour le faire. Il peut exiger à cette fin que le demandeur comparaisse — devant lui ou devant le juge de la citoyenneté pour être interrogé — soit en personne et aux moment et lieu qu'il fixe, soit par le moyen de télécommunication et au moment qu'il fixe.

**TRANSITIONAL PROVISIONS**

**Existing applications — sections 5, 5.1, 9 and 11**

**31. (1)** Subject to subsections (2) and (3), an application that was made under subsection 5(1), (2), or (5), 5.1(1), (2) or (3), 9(1) or 11(1) of the *Citizenship Act* before the day on which subsection 3(7) comes into force and was not finally disposed of before that day is to be dealt with and disposed of in accordance with

**(a)** the provisions of that Act — except section 3, subsection 5(4), sections 5.1 and 14 and paragraph 22(1)(f) — as they read immediately before that day; and

**(b)** the following provisions of that Act as they read on that day:

**(i)** section 3,

**(ii)** paragraph 5(2)(b) and subsection 5(4),

**(iii)** section 5.1 other than paragraph (1)(c.1),

**(iv)** sections 13.1 to 14, and,

**DISPOSITIONS TRANSITOIRES**

**Demandes en instance — articles 5, 5.1, 9 ou 11**

**31. (1)** Sous réserve des paragraphes (2) et (3), la demande qui a été présentée en vertu des paragraphes 5(1), (2) ou (5), 5.1(1), (2) ou (3), 9(1) ou 11(1) de la *Loi sur la citoyenneté* avant la date d'entrée en vigueur du paragraphe 3(7) et dont il n'a pas été décidé définitivement avant cette date est régie à la fois par :

**a)** cette loi, dans sa version antérieure à cette date, exception faite de l'article 3, du paragraphe 5(4), des articles 5.1 et 14 et de l'alinéa 22(1)f);

**b)** les dispositions ci-après de cette loi, dans leur version à cette date :

**(i)** l'article 3,

**(ii)** l'alinéa 5(2)b) et le paragraphe 5(4),

**(iii)** l'article 5.1, exception faite de l'alinéa (1)c.1),

**(iv)** les articles 13.1 à 14,

**(v)** paragraphs 22(1)(a.1), (a.2), (b.1), (e.1), (e.2) and (f) and subsections 22(1.1), (3) and (4).

**(2)** On the day on which section 11 comes into force, the reference to subsection 3(7) in subsection (1) is replaced by a reference to that section 11.

**(3)** On the day on which subsection 2(2) comes into force

**(a)** the reference to section 11 in subsection (1) is replaced by a reference to that subsection 2(2); and

**(b)** the requirement described in paragraph 5(1)(c) or 11(1)(d) of that Act, as enacted by subsections 3(1) and 9(2), respectively, that a person have no unfulfilled conditions relating to their status as a permanent resident, applies to an application referred to in subsection (1).

**(v)** les alinéas 22(1)a.1), a.2), b.1), e.1), e.2) et f) et les paragraphes 22(1.1), (3) et (4).

**(2)** À la date d'entrée en vigueur de l'article 11, le renvoi au paragraphe 3(7) visé au paragraphe (1) est remplacé par un renvoi à cet article 11.

**(3)** À la date d'entrée en vigueur du paragraphe 2(2) :

**a)** le renvoi à l'article 11 visé au paragraphe (1) est remplacé par un renvoi à ce paragraphe 2(2);

**b)** l'exigence selon laquelle la personne est tenue de satisfaire à toute condition rattachée à son statut de résident permanent, mentionnée aux alinéas 5(1)c) et 11(1)d) de cette loi édictés par les paragraphes 3(1) et 9(2), respectivement, s'applique aux demandes visées au paragraphe (1).

[3] The following legislative provisions of the PCTA are relevant for answering the above questions of law:

***Protection of Canada from Terrorists Act*, SC 2015, c 9**

**11. (1) Section 31 of the Act is amended by adding the following after subsection (2):**

**Order in council**

**(2.1)** On the day on which section 8 comes into force, the reference to section 11 in subsection (1) is replaced by a reference to that section 8.

***Loi protégeant Canada contre les terroristes*, LC 2015, c 9**

**11. (1) L'article 31 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit :**

**Décret**

**(2.1)** À la date d'entrée en vigueur de l'article 8, le renvoi à l'article 11 visé au paragraphe (1) est remplacé par un renvoi à cet article 8.

**(2) Paragraph 31(3)(a) of the Act is replaced by the following:**

> **(a)** the reference to section 8 in subsection (1) is replaced by a reference to that subsection 2(2); and

**(2) L'alinéa 31(3)a) de la même loi est remplacé par ce qui suit :**

> **a)** le renvoi à l'article 8 visé au paragraphe (1) est remplacé par un renvoi à ce paragraphe 2(2);

[4] The following legislative provisions of the CA (current version) are relevant for answering the above questions of law:

***Citizenship Act,* RSC, 1985, c C-29**

**Abandonment of application**

**13.2 (1)** The Minister may treat an application as abandoned

> **(a)** if the applicant fails, without reasonable excuse, when required by the Minister under section 23.1,
>
> > **(i)** in the case where the Minister requires additional information or evidence without requiring an appearance, to provide the additional information or evidence by the date specified, or
> >
> > **(ii)** in the case where the Minister requires an appearance for the purpose of providing additional information or evidence, to appear at the time and at the place — or at the time and by the means — specified or to provide the additional information or evidence at his or her appearance; or
>
> **(b)** in the case of an applicant who must take the oath of citizenship to become a citizen, if the applicant fails, without reasonable excuse, to appear and take the oath at the time and at the place — or at

***Loi sur la citoyenneté,* LRC (1985), ch C-29**

**Abandon de la demande**

**13.2 (1)** Le ministre peut considérer une demande comme abandonnée dans les cas suivants :

> **a)** le demandeur omet, sans excuse légitime, alors que le ministre l'exige au titre de l'article 23.1 :
>
> > **(i)** de fournir, au plus tard à la date précisée, les renseignements ou les éléments de preuve supplémentaires, lorsqu'il n'est pas tenu de comparaître pour les présenter,
> >
> > **(ii)** de comparaître aux moment et lieu — ou au moment et par le moyen — fixés, ou de fournir les renseignements ou les éléments de preuve supplémentaires lors de sa comparution, lorsqu'il est tenu de comparaître pour les présenter;
>
> **b)** le demandeur omet, sans excuse légitime, de se présenter aux moment et lieu — ou au moment et par le moyen — fixés et de prêter le serment alors qu'il a été invité à le faire par le ministre et qu'il

the time and by the means — specified in an invitation from the Minister.

**Effect of abandonment**

**(2)** If the Minister treats an application as abandoned, no further action is to be taken with respect to it.

**Prohibition**

**22. (1)** Despite anything in this Act, a person shall not be granted citizenship under subsection 5(1), (2) or (4) or 11(1) or take the oath of citizenship

**(e.1)** if the person directly or indirectly misrepresents or withholds material circumstances relating to a relevant matter, which induces or could induce an error in the administration of this Act;

**Additional information, evidence or appearance**

**23.1** The Minister may require an applicant to provide any additional information or evidence relevant to his or her application, specifying the date by which it is required. For that purpose, the Minister may require the applicant to appear in person or by any means of telecommunication to be examined before the Minister or before a citizenship judge, specifying the time and the place — or the time and the means — for the appearance.

est tenu de le faire pour avoir la qualité de citoyen.

**Effet de l'abandon**

**(2)** Il n'est donné suite à aucune demande considérée comme abandonnée par le ministre.

**Interdiction**

**22. (1)** Malgré les autres dispositions de la présente loi, nul ne peut recevoir la citoyenneté au titre des paragraphes 5(1), (2) ou (4) ou 11(1) ni prêter le serment de citoyenneté :

**e.1)** si, directement ou indirectement, il fait une présentation erronée sur un fait essentiel quant à un objet pertinent ou omet de révéler un tel fait, entraînant ou risquant d'entraîner ainsi une erreur dans l'application de la présente loi;

**Autres renseignements, éléments de preuve et comparution**

**23.1** Le ministre peut exiger que le demandeur fournisse des renseignements ou des éléments de preuve supplémentaires se rapportant à la demande et préciser la date limite pour le faire. Il peut exiger à cette fin que le demandeur comparaisse — devant lui ou devant le juge de la citoyenneté pour être interrogé — soit en personne et aux moment et lieu qu'il fixe, soit par le moyen de télécommunication et au moment qu'il fixe.

**FEDERAL COURT**

**SOLICITORS OF RECORD**

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| **DOCKET:** | T-1981-18 |
| **STYLE OF CAUSE:** | SULAIMAN ALMUHAIDIB v THE MINISTER OF CITIZENSHIP & IMMIGRATION |
| **PLACE OF HEARING:** | MONTRÉAL (QUEBEC) |
| **DATE OF HEARING:** | AUGUST 26, 2019 |
| **JUDGMENT AND REASONS:** | NOËL J. |
| **DATED:** | DECEMBER 2, 2019 |

**APPEARANCES:**

| | |
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| Jacques Beauchemin | FOR THE APPLICANT |
| Lynne Lazaroff<br>Renalda Ponari | FOR THE RESPONDENT |

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| Attorney General of Canada<br>Montréal, Quebec | FOR THE RESPONDENT |