

Federal Court



Cour fédérale

Date: 20250729

Docket: IMM-11720-24

Citation: 2025 FC 1339

Ottawa, Ontario, July 29, 2025

PRESENT: The Honourable Mr. Justice Manson

BETWEEN:

**ALIREZA ARMAN MOGHADAM
MEHRNAZ JALILIAN
DORSA ARMAN MOGHADAM**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Introduction

[1] This is an application for judicial review under section 72(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (the “Act”) seeking a writ of *mandamus* requiring the Respondent to render a decision regarding the Applicants’ application for Permanent Residence.

II. Background

[2] The Respondent's Memorandum at paragraphs 6 to 27 outline the facts of this case. These are summarized below.

[3] The Principal Applicant, Alireza Arman Moghadam, is 59 years old, married, and has two children. Included in her application as dependents are her spouse, Mehrnaz Jalilian (the "Dependent Spouse"), and one of her children, Dorsa Arman Moghadam (the "Dependent Child").

[4] Her other child, Aida Arman Moghadam (the "Sponsor"), is a Canadian permanent resident and sponsored the Application.

[5] On January 28, 2021, Immigration, Refugees and Citizenship Canada ("IRCC") received the sponsorship application.

[6] On February 5, 2021, IRCC sent a letter to the Sponsor informing her that the Application was incomplete and did not meet the requirements of section 10 of the *Immigration and Refugee Protection Regulations*, SOR/2002-227 ("IRPR") and the applicable Ministerial instructions.

[7] On February 14, 2021, the Sponsor submitted the missing information and documents to IRCC. On August 4, 2021, an officer reviewed the Application and determined that it met the completeness requirement under section 10 of the IRPR as of February 14, 2021.

[8] On September 10, 2021, the Sponsor's eligibility to sponsor the Application was approved and correspondence was sent to the Sponsor to inform her of the sponsor eligibility decision.

[9] On September 16, 2021, the Application was transferred to the Ankara visa office for further processing. On October 27, 2021, the Ankara visa office requested that the Applicants complete Immigration Medical Exams and submit police certificates. The visa office received the requested information on November 17, 2021.

[10] On April 26, 2022, the Application was reviewed by a case analyst who initiated an integrated search with regards to the Applicants. The integrated search was completed on June 11, 2022 and the Application was sent to the partners for security screening on June 11, 2022.

[11] Between November 2022 and March 2023, IRCC requested further documents, information and updated passports, which the Applicants provided. The application review was completed on June 11, 2022, and the application was sent for security screening.

[12] On June 28, 2024, the Applicants filed this application for leave and for judicial review seeking an order of *mandamus* to compel the Minister to complete processing of the Application.

[13] As of May 26, 2025, the security screening remained in progress.

[14] On July 23, 2025, the Respondent filed an affidavit which included the Global Case Management System notes relating to the Applicants, together with an Interview Request Letter from IRCC to the Applicants, scheduling an interview at the Canadian Embassy in Ankara on August 5, 2025.

III. Analysis

[15] As a preliminary matter, the question arose as to whether the now scheduled interview as of July 23, 2025, rendered this application moot. It does not.

[16] To obtain a writ of *mandamus*, an applicant must satisfy the following conditions (*Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004 (FCA), [1994] 1 FC 742 at 766-769 aff'd [1994] 3 SCR 1100).

- A. There must be a public duty to act;
- B. the duty must be owed to the applicant;
- C. there must be a clear right to performance of that duty, in particular:
 - i. the applicant has satisfied all conditions precedent giving rise to the duty;
and
 - ii. there was a prior demand for the performance of the duty; a reasonable time to comply with the demand; and a subsequent refusal to perform the duty or an unreasonable delay implying a refusal.

- D. where the duty sought to be enforced is discretionary, certain additional principles apply;
- E. no other adequate remedy is available to the applicant;
- F. the order sought will have some practical value or effect;
- G. there is no equitable bar to the relief sought; and
- H. on a balance of convenience, an order of *mandamus* should be issued.

[17] The Applicants must establish the three requirements for a delay to be considered unreasonable: (1) the delay in question has been longer than the nature of the process required, *prima facie*; (2) the applicants and their counsel are not responsible for the delay; and (3) the authority responsible for the delay has not provided a satisfactory justification (*Conille v Canada (Minister of Citizenship & Immigration)*, 1998 CanLII 9097 (FC), [1999] 2 FC 33 [*Conille*] at 43-44).

[18] The Applicants submit that every requirement has been satisfied, as IRCC has failed to provide the Applicants with a decision in a reasonable timeframe well over the 36 months as being the usual timeframe to deal with such an application, the Applicants have met the procedural requirements under the IRPA and the IRPR, and IRCC has not provided a satisfactory justification for the delay. The Applicants assert that the decision has been unduly delayed, and IRCC is under a duty to render a decision without further undue delay.

[19] The Applicants emphasize that it has been over 52 months since they submitted their application. While the Applicants accept that background and security checks may be a

necessary and important requirement under the IRPA which may require and justify a lengthier delay in processing applications, such a delay must nonetheless be reasonable and sufficiently explained (*Jahantigh v Canada (Citizenship and Immigration)*, 2023 FC 1253 at paras 19, 20).

[20] The Respondent argues that the Applicants have not established that there is a clear right to performance of the duty because they have not shown that they have made a clear prior demand for performance of the duty. The Sponsor sent a letter in October 2022 requesting urgent processing of the application, but this was just over a year from when the application was found to meet the requirements and sponsorship was approved, and during which IRCC was processing and requesting documents from the Applicants. The delay began in March 2023, during security processing. Before filing this application for *mandamus*, the record does not show that the Applicants have requested action from IRCC through a clear demand for performance of the public duty, nor have the Applicants requested status updates or made any other inquiries. Additionally, the Applicants have not shown that the Minister refused to perform the public duty.

[21] The question is whether the Respondent's delay in processing the Applicants' application for permanent residence was unreasonable. Each case must turn on its own factual context. A number of cases have found that where delays of over four years have occurred in processing permanent residence applications, even those with security clearance concerns, that delay may be unreasonable. A blanket statement involving a security clearance without more does not justify an inordinate delay in processing these applications (*Bhatnager v M.E.I.*, 1985 CanLII 5558 (FC), [1985] 2 FC 315; *Conille* at 42, 43; *Abdolkhaleghi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 729 at para 26).

[22] As Justice Layden-Stevenson stated in *Hanano v Canada (Minister of Citizenship and Immigration)*, 2004 FC 998 at paragraph 15:

However, determinations made by my colleagues in other cases provide guidance in this regard. In *Bhatnager*, a delay of 4½ years was found to be unreasonable. In *Mohamed*, supra, a delay of 4 years in waiting for a security clearance for landing of a Convention refugee was found to be longer than *prima facie* required. In *Platonov v. Canada (Minister of Citizenship and Immigration)* (2000), F.T.R. 260 (T.D.) a delay of slightly over two years, after provisional approval, spent in waiting for security checks on former business associates was considered excessive. In *Kalachnikov v. Canada (Minister of Citizenship and Immigration)* (2003), 2003 FCT 777 (CanLII), 236 F.T.R. 142 (T.D.), a delay of approximately 3 years in processing a visa application was considered unreasonable and unjustified when the estimated processing time was 14 months. In *Conille*, supra, the delay of 3 years waiting for a CSIS investigation to be completed before citizenship was granted was found to be unreasonable. In *Dragan*, supra, delays within a range of 2 to 3 years were found to be unreasonable and mandamus issued.

[23] The particular facts of this case, involving the issue of family reunification, where all required documentation was provided in a timely manner, and a delay of 52 months from the outset of the application has not been reasonably explained or justified by the Respondent, warrants that the application be allowed, the writ of *mandamus* be granted and IRCC is to process the permanent residence application within 90 days of the date of this decision.

[24] While the Respondent points out that the Applicants may request a super visa and stay in Canada for up to five years at a time, it does not answer or justify the 52-month delay in this case.

IV. Conclusion

[25] The application is granted.

[26] There is no question for certification.

JUDGMENT in IMM-11720-24

THIS COURT'S JUDGMENT is that:

1. The application for *mandamus* is granted and IRCC is to process the Applicants' permanent residence application within 90 days of the date of this Judgment.
2. There is no question for certification.

"Michael D. Manson"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: ALIREZA ARMAN MOGHADAM, MEHRNAZ
JALILIAN, AND DORSA ARMAN MOGHADAM v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

DATE OF HEARING: JULY 24, 2025

JUDGMENT AND REASONS: MANSON J.

DATED: JULY 29, 2025

APPEARANCES:

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