

Federal Court



Cour fédérale

IMM 12442-24  
**Date: 20250919**

**Docket: IMM-12442-24**

**Citation: 2025 FC 1546**

**Ottawa, Ontario, September 19, 2025**

**PRESENT: Madam Justice Conroy**

**BETWEEN:**

**NAHID EMAM DOUST  
HAMID HASSANI**

**Applicants**

**and**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] This is an application for an order of *mandamus* compelling Immigration, Refugees and Citizenship Canada [IRCC] to render a decision on Ms. Nahid Emam Doust's [Principal Applicant] and Mr. Hamid Hassani's [Associate Applicant] applications for temporary residence visas [TRVs].

[2] The Applicants are spouses and Iranian nationals. On June 15, 2023, the Applicants applied to IRCC for a study permit for Ms. Doust and a work permit for Mr. Hassani.

[3] On August 5, 2023, the Applicants submitted their security screenings to IRCC. The screening for Mr. Hassani remains outstanding. In early August 2023, the Applicants also received a request from IRCC for additional documents. These documents were provided.

[4] On September 12, 2023, Ms. Doust received an Original Passport request from IRCC, but was told on September 13, 2023 to disregard it as it had been sent in error. The Global Case Management System notes state: “Application approved in error, applicant notified. Pending family member”.

[5] On September 29, 2023, IRCC responded to enquiries from the Applicants. IRCC advised that their file was under review and required “additional verifications”, and as a result, the assessment period would extend beyond the published processing times. On January 17, 2024, the IRCC sent a letter to the Applicants again advising that their file “requires additional verifications that are out of our scope”.

[6] On March 26, 2024, IRCC requested further additional information from Mr. Hassani regarding his military service in Iran. While it appears that a response was provided, the timing of that response is not clear from the record.

[7] The Applicants enquired about the status of their applications several times via demand letters, webforms, and requests through a Member of Parliament’s office. The Applicants sent a final demand letter to IRCC dated June 13, 2024.

[8] On July 10, 2024, the Applicants filed this Application for Leave and Judicial Review.

On March 12, 2025, leave was granted and the hearing scheduled for June 9, 2025.

[9] On June 3, 2025 – about a week before the hearing – Mr. Hassani received a Procedural Fairness Letter [PFL] from IRCC advising of concerns that he may be inadmissible under the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA] on security grounds, specifically subsections 34(1)(c) and (f).

[10] The PFL explained that these concerns arose from Mr. Hassani's mandatory military service from August, 2011 to November, 2012 with Iran's Islamic Revolutionary Guard Corps [IRGC]. The IRGC was designated as a terrorist entity by the Government of Canada on June 19, 2024.

[11] Mr. Hussani provided a response to the PFL on June 4, 2025.

#### I. Issue and Legal Test

[12] The sole issue is whether the Applicants have demonstrated that an order for *mandamus* is warranted.

[13] An application for a writ of *mandamus* does not require a determination of the standard of review: *Samideh v Canada (Citizenship and Immigration)*, 2023 FC 854 at para 22 [*Samideh*].

[14] Mandamus is a discretionary remedy. The test was set out by the Federal Court of Appeal in *Apotex Inc v Canada*, 1993 CanLII 3004, [1994] 1 FC 742 (CA), affirmed in [1994] 3 SCR 110 at 766-769 [*Apotex*]. The elements of the test relevant to this case are as follows:

- 1) There must be a public legal duty to act;
- 2) The duty must be owed to the applicant;
- 3) There is a clear right to performance of that duty, in particular:
  - a. the applicant has satisfied all conditions precedent giving rise to the duty;
  - b. there was:
    - i. a prior demand for performance of the duty;
    - ii. a reasonable time to comply with the demand unless refused outright; and
    - iii. a subsequent refusal which can be either expressed or implied, for example by unreasonable delay; and
- 4) No other adequate remedy is available to the applicant;
- 5) The order sought will be of some practical value or effect;
- 6) There is no equitable bar to the relief sought; and
- 7) On a “balance of convenience” an order in the nature of *mandamus* should (or should not) issue.

[15] The test is conjunctive: the applicant must meet all the above conditions before a court will consider exercising its discretion to grant *mandamus* (*Ur Rehman v. Canada (Citizenship and Immigration)*, 2025 FC 388 at para 9. [*Ur Rehman*]).

[16] The issue of unreasonable delay is assessed within the third *Apotex* factor: *Bidgoly v Canada (Citizenship and Immigration)*, 2022 FC 283 at para 15. An authority’s unreasonable

delay in performing its duty may be deemed an implied refusal to perform that duty: *Ghaddar v Canada (Citizenship and Immigration)*, 2023 FC 946 at para 26, citing *Dragan v Canada (Minister of Citizenship and Immigration) (TD)*, 2003 FCT 211 at para 45.

[17] In *Conille v Canada*, 1998 CanLII 9097 (FC) at paragraph 23, this Court set out the following three-step test to assess whether a delay is unreasonable:

- a. The delay in question is *prima facie* longer than the nature of the process required;
- b. The applicant and their counsel are not responsible for the delay; and
- c. The authority responsible for the delay has not provided satisfactory justification.

## II. Analysis

[18] This case turns on the reasonableness of the delay.

A. *Is the delay unreasonable so as to amount to an implied refusal?*

[19] In determining whether the delay is unreasonable in the context of the immigration regime, Justice Grant explained in *Saravanabavanathan v Canada (Citizenship and Immigration)*, 2024 FC 564 at paragraphs 29-30 [*Saravanabavanathan*]:

[29] It is true that delays in the processing of an application must be assessed in terms of the particular facts of the case: *Tapie v Canada (Citizenship and Immigration)*, 2007 FC 1048 at para 7; *Sowane v Canada (Citizenship and Immigration)*, 2024 FC 224 at para 24; *Almuhtadi* at para 37. It is also true that IRCC's publicly posted processing time data should not be considered a guaranteed service standard, but a simple indication as to average processing times at any given point in time. Although IRCC may try to process most applications within target timeframes, expecting the IRCC to adhere to this timeframe for all applications would ignore the complexity of our immigration regime: *Jaballah* at para 94.

[30] All of this being said, this court has also found that IRCC processing guidelines should be accorded weight in assessing delay: *Liang v Canada (Minister of Citizenship & Immigration)*, 2012 FC 758 at para 41. This is in part because of the first of the *Conille* factors: it is important to have some baseline understanding of average processing times in order to assess whether a specific delay in question is *prima facie* longer than the nature of the process requires.

[20] When the Applicants filed their TRV applications in June 2023, the average processing time for such applications from Iran was 11 weeks.<sup>1</sup> As of the date of the hearing, the TRV Applications had been pending for just under 2 years, or 103 weeks.

[21] The Respondent argues that the average processing times are calculated based on 80% of historical files and do not include the time needed for security clearance. While that may be the case, the Respondent provides no evidence of the average processing time for applications with more complex security screenings. In the absence of such evidence, I find that the delay here is *prima facie* longer than the process requires.

[22] There is no suggestion that the Applicants or their counsel are responsible for the delay, so the question that remains is whether there is a satisfactory justification for the approximately 92-week delay.

[23] There is significant jurisprudence from this Court that, while security screenings are important requirements under the IRPA and can warrant processing delays, bald assertions to

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<sup>1</sup> The parties disagree on the average wait times for study permits from Iran at the time the application was filed (June 2023). The Applicants argue it was 6 weeks. The Respondent argues it was 11 weeks. The Respondent provided a screenshot from an archived IRCC website to corroborate its position. The Applicants provided no corroborating evidence to support their position. I therefore prefer the evidence of the Respondent on this point.

that effect are insufficient to justify delay: *Ghalibaf v Canada (Citizenship and Immigration)*, 2023 FC 1408 at paras 13-14; *Abdolkhaleghi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 729 at para 26; *Kanthasamyiyar v Canada (Citizenship and Immigration)*, 2015 FC 1248 at paras 49-50; *Samideh v Canada (Citizenship and Immigration)*, 2023 FC 854 at paras 36-37; and *Jahantigh v Canada (Citizenship and Immigration)*, 2023 FC 1253 at para 19 [*Jahantigh*].

[24] The record before me, however, discloses more than a bald assertion that the security screening is ongoing. The PFL outlines IRCC's concerns about admissibility due to Mr. Hassani's past affiliation with the IRGC, a recently designated terrorist entity. I conclude that this is a satisfactory justification for the delay.

[25] The Applicants argue that the PFL was issued in bad faith. The Applicants note that the information about Mr. Hassani's military service has been in the possession of the government for a year or more, and that the PFL was issued on the eve of a hearing to thwart this *mandamus* application.

[26] The Applicants' frustration is understandable. I would agree that the timing of the issuance of the PFL on the eve of this hearing leaves the impression that the Respondent or its security partners may be dragging their feet. However, I am not prepared to make a finding of bad faith based on this alone (*Jahantigh* at para 11). While tardy, the PFL provides some justification for the delay.

[27] Accordingly, the Applicant has failed to establish a clear right to the performance of the duty under step 3 of the *Apotex* test. The delay, although lengthy, has been justified by the admissibility concerns.

[28] Given the conjunctive nature of the test, I need not consider the remaining steps of the *mandamus* test.

### III. Conclusion

[29] While I am dismissing this application, I am doing so without prejudice to the Applicants' right to bring a further application for *mandamus* at a later point in time.

[30] As noted above, Mr. Hassani responded to the PFL on June 4, 2025. The IRCC would be well advised to process the pending application expeditiously following receipt of the necessary information from the Applicants.

[31] At the hearing, the Applicants resiled from their written request for costs, and none would be justified in the circumstances in any event.

#### **THIS COURT'S JUDGMENT is that:**

1. The application for judicial review is dismissed without prejudice to the Applicants' right to bring a further application for *mandamus* at a later point in time.
2. No question for certification was proposed by the parties and none arises.

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"Meaghan M. Conroy"  
Judge



**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-12442-24

**STYLE OF CAUSE:** NAHID EMAM DOUST ET AL. v. MCI

**PLACE OF HEARING:** EDMONTON, ALBERTA

**DATE OF HEARING:** JUNE 9, 2025

**JUDGMENT AND REASONS:** CONROY J.

**DATED:** SEPTEMBER 19, 2025

**APPEARANCES:**

Oluwadamilola Asuni	FOR THE APPLICANTS
Silvia Suman	FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Crest Attorneys Saskatoon, Saskatchewan	FOR THE APPLICANTS
Attorney General of Canada Saskatoon, Saskatchewan	FOR THE RESPONDENT