Federal Court Cour fédérale

Date: 20251009

Docket: T-2508-24

Citation:2025 FC 1675

Ottawa, Ontario, October 9, 2025

PRESENT: Madam Justice Azmudeh

BETWEEN:

ALI HABIBI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

[1] These are my reasons for granting a writ of *mandamus* directing the Respondent to decide with respect to the citizenship application the Applicant had filed in August 2022. The Respondent's processing delays are unreasonable, and the Applicant has satisfied all the conditions required to issue a writ of *mandamus.*

I. Background

[2] The Applicant is a 39-year-old Iranian national and permanent resident of Canada. He applied for a grant of Canadian citizenship in August 2022 [Application]. The Applicant first came to Canada in 2014 as a student, and in 2020, he became a permanent resident. He underwent security checks both to obtain the study permit and while becoming a permanent resident. No evidence before me suggests that he has moved back to Iran since becoming a student in Canada.

[3] IRCC's service standard for processing citizenship applications has been 12 months for most of the period after the Applicant had filed his application. The Applicants allege that IRCC's current posted processing time (which is ever-changing on IRCC's website) is 6 months. Despite this, until September 23, 2025, when the Applicant passed the security check to IRCC's satisfaction, no decision had been made on the Applicant's application for the past 36 months. The stated ground was that his security check was pending. Now that the security check has cleared, this Court heard that the Applicant's criminality check had expired, and that he needed to retake his fingerprints to complete an updated criminality check. But for the unexplained delay caused by the security check, the need to redo the criminality check would not have occurred.

[4] Since applying for citizenship, now over 36 months ago, the Applicant made numerous status inquiries with Immigration, Refugees and Citizenship Canada (IRCC), both personally and through his Member of Parliament's office. IRCC continually advised the Applicant that they were awaiting the completion of his security screening process. Other than this, IRCC has provided no explanation for the delay or a timeline for finalization. As recently as July 22, 2025,

the Global Case Management System (GCMS) Notes indicated that the security check was still under review and that the file would be brought forward in 6 months. This July 22, 2025 entry is the last entry on the GCMS notes before me. The GCMS entry dated January 31, 2023 indicates that: “record search date 2023/01/19 , No Record results, Criminality set to Passed”.

[5] My review of the GCMS notes indicates that IRCC has not taken issue regarding residency, criminality, or any other admissibility concerns. However, while it is understandable that IRCC needs a valid criminality check, the Respondent has not explained why one could not be initiated upon the expiry of the previous one, so there would be no additional need to wait after the stated cause of delay—the security check—was completed.

[6] The Applicant alleges that the delay in the processing of his citizenship application has had a detrimental effect on his professional life, as many advanced positions in his field of civil and environmental engineering are reserved for Canadian citizens. This has led him to accept a position in the United States while his wife and two young children continue to reside in Canada.

[7] The parties agree that the Applicant has filed all the necessary documents and has been diligent to respond to any inquiry made by IRCC, such as the fingerprint requests, including the most recent one.

II. Analysis

[8] The Applicant argues that that he has satisfied the test for *mandamus* set out in *Kalachnikov v Canada (Minister of Citizenship and Immigration)* 2003 FCT 777 (citing *Apotex*

Inc v Canada (Attorney General), 1993 CanLII 3004 (FCA), which sets out the following requirements:

> 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 the performance of that duty, in particular:
>
> > a. the applicant has satisfied all conditions precedent giving rise to the duty;
> >
> > b. there was a prior demand for performance of the duty, a reasonable time to comply with the demand, and a subsequent refusal which can be either expressed or implied, e.g. unreasonable delay; and
>
> 4. There is no other adequate remedy:
>
> 5. The "balance of convenience" favours the applicant:

[9] This Court's decision in *Conille v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 9097 (FC) [*Conille*] sets out three requirements that must be met for a delay to be unreasonable under step 3. First, it must have been longer than the nature of the process required. Second, the applicant and their counsel are not responsible for the delay. Third, the government actor responsible for the delay has not provided satisfactory justification (*Conille* at para 23).

[10] Each *mandamus* application turns on its own facts (*Platonov v Canada (Minister of Citizenship and Immigration*, 2000 CanLII 16104 (FC) at para 10; *Mohamed v Canada*, 2000 CanLII 16405 (FC) at para 1). I note that the facts of this case are analogous to those in *Almasi v. Canada (Citizenship and Immigration)*, 2025 FC 1377 [*Almasi*] and *Jebelli v Canada (Citizenship and Immigration)*, 2025 FC 500 [*Jebelli*]. I therefore adopt much of this Court's

analysis from those cases, which I find to be both binding and persuasive. Both cases agreed that the *mandamus* test, as described above, was satisfied (*Almasi* at para 1; *Jebelli* at para 2).

[11] The two main contested grounds of the test are the unreasonable delay and the balance of convenience, and so I will engage with them. At the hearing, the Respondent's counsel mainly focused on the balance of convenience favouring the Respondent. She conceded that she would not argue "undue hardship" as a separate ground, but only in the context how it would relate to the balance of convenience.

[12] I acknowledge and agree with the Respondent that paragraphs 3(1)(h) and (i) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*], which outline *IRPA's objectives* to "maintain the security of Canadian society" and "denying access to Canadian territory to persons who are criminals or security risks" set out a necessary and important requirement. This requirement is consistent with the requirement under section 13.1 of the *Citizenship Act*, RSC 1985, c C-29. This requirement references investigations for the purpose of determining whether the applicant should be the subject of an admissibility hearing or removal order under *IRPA* as a central component of the legislation.

[13] I also agree with the Respondent that the stated processing times, in and of themselves, are not binding on the Minister, and do not automatically entitle an applicant to a *mandamus* if and when exceeded (*Jaballah v Canada (Minister of Citizenship and Immigration)*, 2019 FC 1051 at paras 87-94; *Jia v Canada (Citizenship and Immigration)*, 2014 FC 596 at para 92).

[14] But in this case, the only concern appeared to be the Applicant's security check, for which there was no end in sight—until the day of the hearing this Court heard that the security check had been passed. Until this communication, other than putting a "Bring Forward" (BF) on the system every six months, the GCMS notes do not appear to suggest that IRCC took active measures to resolve its potential security concerns. The Respondent does not suggest that there are any other outstanding issues with respect to the Applicant meeting the other legislative requirements, such as his residency obligation.

[15] Thus, I find that the Applicant has met all steps of the *Conille* test. There is no question that the delay of 36 months and counting is significantly greater than the service standard of 12 months. There is no evidence or suggestion that the applicant or his counsel were responsible for the delay, and IRCC has not provided a satisfactory justification for the delay (*Conille* at para 23). In fact, they have provided none. My review of the record does not point to any explanation with respect to the length of the security checks, despite the Applicant's repeated inquiries.

[16] In assessing the justification of the delay, especially when the Applicant has already undergone security checks to obtain his study permit and permanent residence visa, one would reasonably expect to see that IRCC was concerned by new factors. There are none. Though placing a BF on the file every six months creates an infinite loop, I cannot find that it offers a satisfactory justification.

[17] In finding that the Applicant has met the *Conille* test, I am guided by *Jebelli* at paragraphs 17-21. Like in *Jebelli*, I find IRCC's processing guidelines to be a relevant

consideration when assessing delays and that in the absence of evidence going to difficulties to obtain security checks, blanket statements on them being outstanding are insufficient to justify a delay. (*Saravanabavanathan v Canada (Citizenship and Immigration)* 2024 FC 564 at para 34 citing *Ghaddar v Canada (Citizenship and Immigration)*, 2023 FC 946 at para 33; *Bidgoly v Canada (Citizenship and Immigration)*, 2022 FC 283 at paras 37-38; *Almuhtadi v Canada (Citizenship and Immigration)*, 2021 FC 712 at para 40; *Kanthasamyiyar v Canada (Citizenship and Immigration)*, 2015 FC 1248 at paras 49-50; *Abdolkhaleghi v Canada (Minister of Citizenship and Immigration)*, 2005 FC 729 at para 26).

[18] Here, like in *Jebelli and Almasi*, the GCMS notes do not point to any information to provide any basis or explanation for the security concerns, or the expected investigation length (*Jebelli* at para 21; *Almasi* at para 18). Awaiting security checks and placing a BF on the file every six months, without further explanation, is therefore akin to a blanket statement that security checks are pending.

[19] I also note that in *Conille*, the Respondent's argument that security checks are being handled by a partner agency such as the Canadian Security Intelligence Service (CSIS) did not absolve the Respondent of discharging the public duty it owed to the Applicant (*Conille* at paras 25-26). For this Court in *Conille*, allowing "CSIS to delay the conclusion of its investigation indefinitely, and thereby prevent the Registrar from submitting the application to the citizenship judge" essentially amounts "to usurping the powers conferred on the Registrar" under the *Citizenship Act* (*Conille* at para 26). *Conille* is persuasive for the proposition that public bodies,

such as IRCC, cannot use the fact that they have outsourced their statutory duty as a justification for delay or to escape accountability.

[20] I find that the balance of convenience tilts in the Applicant's favour. The Applicant, who is highly educated, has provided evidence that his desired work is best done through the National Research Council or through other public service jobs, where Canadian citizens are favoured. The Applicant's uncontested evidence demonstrates that the unexplained delay in processing his citizenship application has had a serious impact on his professional life, which in effect has resulted in a separation from his young family. This is because he has accepted a position in the United States while his wife and two Canadian-born children remain in Canada. The Respondent argued that this was the Applicant's choice which cannot tilt the balance of convenience in his favour.

[21] I disagree. His choices became more limited because of the Respondent's unexplained delay. Further, the Applicant cannot participate in the Canadian democracy, and the delay for security ground has left him with a feeling of uncertainty about his and his family's future in Canada. These are not insignificant for him personally or for the Canadian society. The only balance of convenience argument in the Respondents' favour is the importance and necessity of security checks. I agree with the Respondent that security checks are important and essential, but the Respondent cannot use them as an excuse for unexplained delays. The Respondent argued at the hearing that the length of the delay is what it took to grant the security check. The Respondent's argument can be paraphrased to say that the security check can take as long as it needs, and that they are not responsible for the time it takes, nor do they owe an explanation as to

its particulars. The Respondent cannot reasonably rest their "balance of convenience" argument on an expectation that the Applicant must bear the cost of any and all arbitrary and unexplained delays.

[22] Thus, I find that the balance of convenience rests with the Applicant, and therefore *mandamus* issues.

III. Special Reasons to Award Costs

[23] The Applicant requests $1,500 in costs.

[24] In immigration matters, a costs award is subject to Rule 22 of the Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22, which provides that no costs shall be awarded on applications for leave and judicial review but for "special reasons." Rule 22 reads as follows:

Costs	**Dépens**
22 No costs shall be awarded to or payable by any party in respect of an application for leave, an application for judicial review or an appeal under these Rules unless the Court, for special reasons, so orders.	**22** Sauf ordonnance contraire rendue par un juge pour des raisons spéciales, la demande d'autorisation, la demande de contrôle judiciaire ou l'appel introduit en application des présentes règles ne donnent pas lieu à des dépens.

[25] The threshold for establishing the existence of "special reasons" is high (*Aleaf v Canada (Citizenship and Immigration)*, 2015 FC 445 at para 45).

[26] In *Sachdeva v Canada (Citizenship and Immigration)*, 2024 FC 1522, Justice Gascon summarized circumstances where special reasons may exist:

> [69] Conduct that amounts to "special reasons" for costs may include the following: unnecessarily or unreasonably prolonging proceedings, acting unfairly, oppressively, or improperly, engaging in conduct that was actuated by bad faith, and undermining the judicial system's integrity (*Canada (Public Safety and Emergency Preparedness) v Oko-Oboh*, 2022 FC 740 at para 10, citing *Taghiyeva* at para 18 and *Mayorga v Canada (Citizenship and Immigration)*, 2010 FC 1180 at paras 21, 47; *Dhaliwal v Canada (Citizenship and Immigration)*, 2011 FC 201 at para 31). This Court has also found "special reasons" where there has been reprehensible, scandalous, or outrageous conduct on the part of a party (*Kaur v Canada (Citizenship and Immigration)*, 2024 FC 1155 at para 22, citing *Toure v Canada (Citizenship and Immigration)*, 2015 FC 237 at para 16).

[27] In *ABCD v Canada (Citizenship and Immigration)*, 2025 FC 1296, Justice Gascon also noted that costs have frequently been awarded where excessive delay was caused by immigration decision-makers in *mandamus* applications (*Mamut v Canada (Citizenship and Immigration)*, 2024 FC 1593 at paras 129-130; *Amawla v Canada (Citizenship and Immigration)*, 2024 FC 1132 at paras 28-29; *Ghaddar v Canada (Citizenship and Immigration)*, 2023 FC 946 at paras 46-49; *Samideh v Canada (Citizenship and Immigration)*, 2023 FC 854 at paras 46-48; *Tameh v Canada (Public Safety and Emergency Preparedness)*, 2017 FC 288 at para 78; Aghdam v Canada (Public Safety and Emergency Preparedness), 2011 FC 131 at paras 21-22).

[28] Here, the Applicant does not suggest that the Respondent has engaged in unfair, oppressive, or improper actions, nor does the Applicant suggest that the Respondent has acted in bad faith. However, while the existence of those factors establishes "special reasons", these

factors are not necessary prerequisites. I find that the following factors are quite special in this case:

a. This Court has repeatedly rejected the blanket statements made by the Respondent's unexplained and significant delays, most recently in *Almasi* and *Jebelli*. Yet, the Respondent continues to base its arguments on the same grounds, at the extra cost of forcing the Applicant into unnecessary litigation;
b. In this case, the Applicant's previous status in Canada required him to pass a security check twice. Here, the two previous security checks were completed without an issue, and there is no evidence or suggestion of a new triggering event attributable to the Applicant. Given that, the significant, unexplained delay for the new security checks, for which the Minister is not accountable, is an aggravating factor that qualifies as a special reason in the assessment of costs;
c. The unexplained delay in processing the security check has caused further prejudice to the Applicant, even when it was finally completed. Though he had completed his criminality check to the satisfaction of the Canadian authorities for his citizenship application, he now needs to redo it. But for the unexplained delay, this would not be needed. Even then, the Respondent never requested updated fingerprints and a police clearance upon the expiry of the first one to mitigate the further delay.

[29] I find this Court's decision in *Gichura v Canada (Citizenship and Immigration)* to be both binding and persuasive (2024 FC 1756 [*Gichura*]). I acknowledge the Respondent's arguments that in that case, the Applicant's declining health required family support, and that the

Applicant had written to the Respondent multiple times with corroborative documents, which were relevant factors in awarding costs. However, I find that the salient point of *Gichura* was the significant delay (four years in that case) that did not appear to be due to particular complexities, but rather as a result of unexplained and lengthy periods of inaction (*Gichura* at paras 15, 17). I find the same logic applies here.

[30] Therefore, while costs are highly unusual in immigration cases, I find that there are special reasons to award costs in favour of the Applicant in this case.

IV. Conclusion

[31] For the reasons articulated above, the application for mandamus is granted with costs in the amount of $1,500 in favour of the Applicant.

JUDGMENT in T-2508-24

THIS COURT'S JUDGMENT is that:

1. The application for a writ of *mandamus* is granted.

2. The Respondent has acknowledged that the Applicant has passed the security check to the Respondent's satisfaction, and that the only outstanding matter in the citizenship application is the updated criminality check.

3. Upon completion of the updated criminality check, the Respondent will notify the Applicant of the result in the criminality check within 30 days of receipt of the updated criminality check.

4. A decision on the Applicant's citizenship application will be rendered as soon as possible, but no later than 60 days from the date the Respondent receives the result of the criminality check.

5. No questions were raised for certification and none arise.

6. The Respondent will pay the Applicant's costs in the amount of $1,500.

"Negar Azmudeh"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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