

Federal Court



Cour fédérale

Date: 20251023

Docket: IMM-24716-24

Citation: 2025 FC 1718

Ottawa, Ontario, October 23, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

YIBO LIU

Applicant

and

THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicant seeks an order of *mandamus* compelling the Respondent to make a decision on his temporary resident visa [TRV] application submitted in July 2023. I am satisfied that the requirements for *mandamus* have been met.

[2] In particular, the Respondent has failed to provide a satisfactory justification for the processing delay of over two years. As this Court has consistently held, blanket statements that security screening is pending are wholly insufficient. Further, the Respondent's argument that the delay is outside of Immigration, Refugees and Citizenship Canada [IRCC]'s control is without merit. The fact that one of IRCC's federal government partners may be responsible for the security screening in this case does not relieve the Respondent of its obligation to justify the delay with direct evidence.

[3] In the circumstances, I find that the balance of convenience favours the Applicant. I am allowing the application for judicial review and ordering that the Respondent make a decision on the Applicant's TRV application within 60 days of this Judgment.

II. Background

[4] The Applicant, a citizen of China, has been residing in Canada since December 2019 on two successive study permits. He is pursuing a Philosophy PhD in Earth and Space Science at York University in Toronto, Ontario. The Applicant's latest study permit was obtained in July 2023, and it expires January 31, 2026. His wife and child reside in Canada with him.

[5] In July 2023, the Applicant also submitted a TRV application for the period of August 2023 until January 2026. According to the Applicant's evidence, his grandparents, who reside in China, are ailing and he wishes to visit them. However, if he leaves Canada to visit them without a TRV, he will not be able to re-enter the country upon his return: Affidavit of Yibo Liu, sworn February 10, 2025 at para 11, Applicant's Record at 9 [Applicant's Affidavit].

[6] In addition, one of the Applicant's academic papers was accepted by the European Conference on Computer Vision. The Applicant states that, as he approaches graduation, his attendance at this conference "presents a valuable opportunity to network with industry professionals and enhance his job prospects": Applicant's Affidavit at para 13, Applicant's Record at 9–10. However, the delay in processing the Applicant's TRV application has prevented him from attending the conference.

[7] Since filing his TRV application in July 2023, the Applicant made several online inquiries with IRCC about the status of his application. In response, he only received standard replies that it was being processed. Furthermore, the Applicant did not receive any inquiries, requests for more information, or further instruction from IRCC: Applicant's Affidavit at paras 4–5, Applicant's Record at 8.

III. Analysis

[8] The legal test for *mandamus* is well established. As set out in *Apotex Inc v Canada (Attorney General)* (CA), 1993 CanLII 3004 (FCA), [1994] 1 FC 742, eight preconditions must be satisfied. Here, only two of these are in contention. First, whether there is a clear right to performance of a public legal duty to act. Second, where the balance of convenience lies.

A. *There is a clear right to performance of a duty*

[9] To establish a clear right to performance of a public legal duty to act, the Applicant must prove there has been an unreasonable delay in processing his application. This requires the

Applicant to demonstrate that: (i) the delay in question has been longer than the nature of the process *prima facie* requires; (ii) he is not responsible for the delay; and (iii) the authority responsible for the delay has failed to provide a satisfactory justification: *Conille v Canada (Minister of Citizenship and Immigration) (TD)*, 1998 CanLII 9097 (FC), [1999] 2 FC 33 at 43 [Conille]. Given there is no suggestion that the Applicant is responsible for the delay, I will focus on the other two requirements.

(1) The delay is *prima facie* longer than the nature of the process requires

[10] While not determinative, IRCC's standard processing times for similar applications is a relevant consideration in assessing the reasonableness of the delay: *Javed v Canada (Citizenship and Immigration)*, 2025 FC 987 at para 13 [Javed]; *Mamut v Canada (Citizenship and Immigration)*, 2024 FC 1593 at para 94 [Mamut]; *Saravanabavanathan v Canada (Citizenship and Immigration)*, 2024 FC 564 at para 30 [Saravanabavanathan]. Neither party submitted evidence about the general processing times for TRV applications in July 2023 when the Applicant filed his application. However, according to the Applicant, as of October 29, 2024, the average processing time was 24 days, while the Respondent states that it was 27 days as of August 5, 2025.

[11] The Respondent argues that these average processing times are simply service standard guidelines and do not apply in "complex and non-routine" applications. In that vein, the Respondent filed affidavit evidence of a Department of Justice [DOJ] paralegal, appending general information about security screening. However, whether more time is required than average due to security screening is properly considered under the third *Conille* requirement: whether the Respondent has provided a satisfactory explanation for the delay: *Mamut* at para 94.

[12] The Applicant's TRV application has been in process for over 27 months (or more than 800 days), which is roughly 30 times longer than the standard processing time of 27 days as of August 2025. I am satisfied that the processing delay has been longer than the process *prima facie* requires.

(2) The Respondent has failed to justify the processing delay

[13] This Court has consistently held that blanket statements that security screening is ongoing are insufficient to justify delay: *Javed* at para 15; *Mamut* at para 103; *Saravanabavanathan* at para 34; *Jahantigh v Canada (Citizenship and Immigration)*, 2023 FC 1253 at para 19 [*Jahantigh*]. As Justice McHaffie explains, "to assess whether the length of a security review is reasonable, [the Court] must have some information about the review and the reason for its length": *Jahantigh* at para 20. Here, there is no such evidence.

[14] As of August 24, 2023, the Applicant's TRV application was "pending screening": Global Case Management System [GCMS] notes, Certified Tribunal Record [CTR] at 2. There is no further information about the status of the Applicant's application on the record, other than a screenshot of the admissibility tab from the GCMS notes, appended as an exhibit to an affidavit of a DOJ paralegal simply showing that security screening was "in progress" as of August 24, 2023: Supplemental Further Affidavit of Leah MacLean, affirmed August 25, 2025, Exhibit A.

[15] The Respondent also filed an affidavit of another DOJ paralegal that appends general information from IRCC's website about processing times, service standards, and security screening. While that affidavit also attaches GCMS notes updated to August 6, 2025, those notes

do not shed any further light on the status of the Applicant's TRV application: Affidavit of Rajbir Shergill, affirmed August 13, 2025, Exhibit K [Shergill Affidavit]. Filing an affidavit of a DOJ paralegal with no direct knowledge of the Applicant's application "provides no insight" into the processing of the Applicant's application and is, therefore, of limited assistance to the Court in assessing the reasonableness of the delay: *Javed* at para 14.

[16] Three arguments made by the Respondent to justify the delay merit discussion. First, in oral submissions, Respondent's counsel suggested that the Applicant's case was one of those complex, non-routine cases that required more time for security screening. Counsel pointed to the Applicant's Chinese citizenship, and his "expertise in computer programming". With respect to the latter, the Applicant's evidence is that he was invited to present an academic paper at a European Conference on Computer Vision. I see no evidence, however, of an expertise in computer programming. Indeed, the Applicant's doctoral studies are in philosophy, not computer science.

[17] In any event, I am not prepared to draw any inferences about the nature or complexity of the requisite security screening in this case. It was incumbent on the Respondent to adduce direct evidence explaining the delay. As I stated at the hearing, if the Respondent was unable to provide such evidence on the public record, it could have applied for the non-disclosure of information under section 87 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[18] Second, the Respondent repeatedly argued that the Applicant's file was sent to IRCC's partners, either the Canadian Security and Intelligence Service [CSIS] or the Canada Border

Services Agency [CBSA], for security screening: Respondent's Further Memorandum of Argument at paras 6, 8, 26, 28, 39, 40, 43, 44, 45. However, there is no evidence on the record that either CSIS or CBSA are involved in the Applicant's security screening which has been pending since August 24, 2023.

[19] Notably, the evidence is that IRCC's admissibility assessment includes security screening, and that only certain applications are referred to CBSA and CSIS for more comprehensive screening: Shergill Affidavit, Exhibit J at 48–49. Unlike other cases, there is no evidence that such referrals were made in the present case, see for example: *Ur Rehman v Canada (Citizenship and Immigration)*, 2025 FC 388 at para 4; *Jahantigh* at para 5; *Mamut* at paras 70, 72, 99.

[20] Third, the Respondent asserts that IRCC has provided a satisfactory explanation for the delay, arguing that "CSIS and CBSA are separate governmental agencies over which the IRCC has no managerial control": Respondent's Further Memorandum of Argument at para 39. Even if one of IRCC's federal government partners is seized of the Applicant's security screening, this does not relieve the Respondent of its onus of adducing sufficient evidence to explain the processing delay: *Habibi v Canada (Citizenship and Immigration)*, 2025 FC 1675 at para 19; *Jahantigh* at paras 5, 21–23, 25; *Gentile v Canada (Citizenship and Immigration)*, 2020 FC 452 at paras 30, 32.

[21] Based on the foregoing, the Respondent has failed to provide a reasonable justification for the delay in processing the Applicant's TRV application.

B. *The balance of convenience favours the Applicant*

[22] The Respondent argues that before an order of *mandamus* can issue, an applicant must establish that prejudice will result from the delay: Respondent's Further Memorandum of Argument at para 53. This Court's recent jurisprudence clarifies that an applicant is not required to establish prejudice to prove unreasonable delay: *Yang v Canada (Citizenship and Immigration)*, 2025 FC 1687 at para 15 [*Yang*]; *Javed* at para 16; *Sharma v Canada (Citizenship and Immigration)*, 2025 FC 796 at para 6; *Majidi v Canada (Citizenship and Immigration)*, 2025 FC 680 at paras 26–31 [*Majidi*]; *Tousi v Canada (Citizenship and Immigration)*, 2025 FC 671 at paras 11–17.

[23] I agree with Justice Grant that where an applicant “can point to *some* prejudice, the balance [of convenience] will typically tilt in favour of the *mandamus* relief sought” [emphasis in original]. However, prejudice is not a required element of the balance of convenience assessment: *Majidi* at para 29.

[24] In this case, the Applicant has been waiting over two years with no information as to the status of his TRV application. He cannot travel back to China to visit his ailing grandparents because, on a study permit, he will be unable to return to Canada where his wife and child currently reside. Similarly, he cannot leave the country to present his academic paper at a European conference and then return to Canada to complete his studies. As the Applicant explains, this is impacting his future employment prospects. I am satisfied that the Applicant has experienced some prejudice.

[25] The Respondent's reliance on *AB v Canada (Citizenship and Immigration)*, 2025 FC 1514 is misguided: Respondent's Further Memorandum of Argument at para 54. In that case, the balance of convenience favoured the Respondent specifically because the Applicant had failed to provide her biometric data, which was required to process her application. There is no similar failing by the Applicant in this case.

[26] Finally, the Respondent argues that the balance of convenience does not favour the granting of *mandamus* because background checks are "requirements that were put in place to protect the security of Canadians and those within Canada": Respondent's Further Memorandum of Argument at para 55. There is no doubt that security screening, where required, is a critical step in the process. However, this does not, in and of itself, tip the balance in the Respondent's favour.

[27] For these reasons, I find that the balance of convenience favours the Applicant.

C. *Remedy*

[28] At the hearing, I asked the parties what would constitute a reasonable amount of time within which to require the Respondent to make a decision on the Applicant's TRV application. The Applicant submitted that 60 or 90 days would be a reasonable timeframe. The Respondent took the position of "the longer the better".

[29] This Court has issued *mandamus* orders ranging from 30 to 120 days: *Yang* at para 17. Absent any evidence regarding the nature and complexity of the ongoing security screening, I find

that 60 days is sufficient time within which the Respondent must make a decision. This will ensure a decision is made before the Applicant's current study permit expires on January 31, 2026.

IV. Conclusion

[30] The application for judicial review is granted. The Applicant met all the requirements for an order of *mandamus*. A decision must be made on his temporary residence visa application no later than 60 days from the date of this Judgment.

[31] The parties did not propose any question for certification, and I agree that none arise.

JUDGMENT in IMM-24716-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is granted.
2. A decision on the Applicant's temporary residence visa application must be made within 60 days from the date of this Judgment.
3. There is no question for certification.

"Anne M. Turley"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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STYLE OF CAUSE: YIBO LIU v THE MINISTER OF CITIZENSHIP AND
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