

Federal Court



Cour fédérale

Date: 20251117

Docket: IMM-22879-24

Citation: 2025 FC 1832

Ottawa, Ontario, November 17, 2025

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

**SHENGYONG WANG
ERKANG LIN
JAIYI LIN**

Applicants

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] The principal Applicant, Shengyong Wang, her husband, Erkang Lin, and their daughter, Jiayi Lin, are citizens of the People’s Republic of China. They seek a writ of *mandamus* to compel the Respondent to make a decision regarding their applications for permanent residence [PR applications] as part of the Economic class of the Québec Business Category [QBC], which were filed 7 years prior.

[2] A preliminary issue needs to be addressed before turning to the merits of the application. The Applicants have named the Minister of Immigration, Refugees and Citizenship [MIRC] as Respondent. However, subsection 4(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27, s 4(1) [IRPA] provides that “the Minister of Citizenship and Immigration is responsible for the administration of this Act,” except as otherwise provided in the section. There is no provision conferring powers and duties on the MIRC in section 4 or elsewhere in the IRPA. Accordingly, by the Court’s own motion, the style of cause is amended with immediate effect to name the Minister of Citizenship and Immigration [Minister] as the proper respondent: *Federal Courts Rules*, SOR/98-106, s 76.

I. Background

[3] In 2018, Ms. Wang applied for a Certificat de sélection du Québec [Certificate of Selection] in the QBC and investor sub-category.

[4] The Québec Investment Immigration Program [QIIP] is designed to attract individuals who make substantial financial contributions to Québec as a pathway to obtaining permanent residence. The QBC is a popular stream with a number of applicants and limited spots available.

[5] Under the Canada-Québec Accord on Immigration, the Government of Québec is responsible for selecting immigrants to the province based on its criteria. The federal government, through Immigration, Refugees, and Citizenship Canada [IRCC], is tasked with processing admissions and ensuring compliance with statutory requirements.

[6] As required by the relevant Québec regulations, Ms. Wang submitted a convertible term note in the amount of \$800,000 on June 12, 2018.

[7] On June 14, 2018, the ministère de l'Immigration, de la Francisation et de l'Intégration of Québec [MIFI] issued a Certificate of Selection in favour of the Applicants.

[8] The Applicants subsequently filed PR applications with the Consulate in Hong Kong. The applications were received by IRCC on July 23, 2018.

[9] While awaiting the processing of their PR applications, Ms. Wang and Mr. Lin decided to come to Canada as visitors in 2019 to allow Jiayi Lin to attend school in Québec. They purchased a house in Gatineau in 2020.

[10] On June 1, 2022, the Applicants submitted a webform inquiry to IRCC requesting expedited processing of their PR applications. They submitted another webform inquiry through their counsel. They also asked the office of their local Member of Parliament [MP] to inquire about the progress of their PR applications on their behalf.

[11] On February 17, 2023, IRCC sent a letter to the Applicants requesting further documents. The Applicants promptly completed the request.

[12] On May 18, 2023, Mr. Lin's PR application was flagged for additional security screening.

[13] On December 7, 2023, IRCC advised the MP's office that the PR applications were pending additional background checks in response to a status update.

[14] On March 21, 2024, in response to a status update, IRCC provided the same information to the Applicants' representative.

[15] On May 16, 2024, the Applicants' medical certificate was reassessed and granted.

[16] On December 3, 2024, the Applicants filed for the present application for judicial review seeking an order of *mandamus*.

II. Issues to be determined

[17] The Applicants submit that the application raises three issues: (1) whether 7 years of delay, including 4.5 years of documented inaction during high-quota years, constitutes unreasonable delay warranting *mandamus*; (2) whether IRCC's "temporal contradiction" that inaction during 2018-2023 followed by deferral when quotas became restrictive breaches procedural fairness and rational decision-making; and (3) whether the QIIP's structured nature and the Applicants' substantial reliance create heightened procedural fairness obligations.

[18] I would frame the issue to be determined instead as whether the Applicants have satisfied the test for *mandamus*.

III. Analysis

[19] As is well established, the legal test for a writ of *mandamus* is set out in *Apotex Inc v Canada (Attorney General) (CA)*, 1993 CanLII 3004 (FCA), [1994] 1 FC 742 at para 55, aff'd 1994 CanLII 47 (SCC).

[20] The preconditions that must be satisfied in the immigration context are set out in *Vaziri v Canada (Minister of Citizenship and Immigration)*, 2006 FC 1159, at paragraph 38:

- (i) There must be a legal duty to act;
- (ii) The duty must be owed to the Applicants;
- (iii) There must be a clear right to performance of that duty, meaning that:
 - a. The Applicants have satisfied all conditions precedent and
 - b. There must have been:
 - I. A prior demand for performance;
 - II. A reasonable time to comply with the demand, unless there was outright refusal; and
 - III. An express refusal, or an implied refusal through unreasonable delay;
- (iv) No other adequate remedy is available to the Applicants;
- (v) The Order sought will have some practical value or effect;
- (vi) There is no equitable bar to the relief sought;
- (vii) On a balance of convenience, *mandamus* should lie.

[21] All seven criteria must be met for mandamus to be issued: *Lukacs v Canada (Transportation Agency)*, 2016 FCA 202 at para 29.

[22] There is no dispute that the Minister has a public legal duty that is owed to the Applicants to process their PR applications. However, as explained below, the present application fails at the third criteria, in particular the requirement to establish “an express refusal, or an implied refusal through unreasonable delay.”

[23] The Applicants submit that the delay in processing their PR applications is objectively unreasonable and tantamount to an express refusal. I disagree. While there was a significant period of inactivity on the Applicants’ file, the Applicants have not established a failure or inaction on the Minister that has not been reconciled by the evidence before me.

[24] By the Applicants’ own evidence, Québec maintained annual investor admission levels exceeding 5,000 until the quotas were dropped to 400-500 for 2025. It would appear that IRRC never not stopped processing PR applications of applicants who applied under the QIIP.

[25] In his affidavit filed in response to the Applicants’ present application, Gilles Bourassa, Assistant Director at National Headquarters for the International Platform Branch of IRCC, states that targets are set for the QBC on a constant basis for the overseas offices of the International Platform, including the Consulate General of Canada in Hong Kong. According to Mr. Bourassa, Canada remains responsible for establishing levels of immigration annually, taking into account Québec’s advice on the number of immigrants that it wants to receive.

Processing times for PR applications can be affected by many factors, including space available in the Levels Plans. He explains that if there are more applications in inventory than what can be processed within MIFI targets, permanent residence applicants will experience longer processing times because IRCC aims for admission to be within ranges established by Québec. Mr. Bourassa affirms that applications in the QBC are processed on a “first in, first out” basis according to when the migration office receives the applications.

[26] The Applicants argue that the delay in processing their application was unreasonable because four and a half years represented prolonged inaction, that the COVID-19 pandemic cannot explain the delay, and that Québec’s authority does not suspend IRCC’s federal duty to process applications under the IRPA. I disagree.

[27] The time taken to process the Applicants’ PR applications is satisfactorily justified in this case. Indeed, the uncontradicted evidence before me demonstrates an established and orderly process for processing applications under the QBC.

[28] The Applicants argue that the delay in their case is self-created by the Minister and that it is the product of administrative convenience rather than legal constraint. The Applicants cite and rely on the 2023 Report of the Auditor General of Canada to the Parliament of Canada, Report 9, *Processing Applications for Permanent Residence –Immigration, Refugees and Citizenship Canada*. In her report, the Auditor General found many systemic issues within IRCC. There is no merit to this argument.

[29] As conceded by the Applicants at the hearing, the Auditor General did not comment, let alone criticize the processing of applications under the QBC, and more specifically, the Québec Selected Investor Category. The simple fact is that a great many people with significant financial resources, such as the Applicants, wish to immigrate to Canada and the country can only absorb a certain number of them on an annual basis. High immigration levels generally constitute a reasonable explanation for delay in processing applications and does not justify issuing a writ of *mandamus* for any particular applicant impacted by the delay.

[30] As stated by Justice Richard Mosely in *Mersad v Canada (Citizenship and Immigration)*, 2014 FC 543 at para 27:

[27] [...] Parliament has entrusted the determination of what that number should be and of the measures to put the necessary administrative machinery in place to achieve that objective to the executive branch of government. This Court should not intervene to force the consideration of one applicant's case over the many that are ahead of him in the queue.

[31] There is no evidence that the time taken by the Minister in processing the Applicants' PR applications was due to bad faith, negligence or refusal to perform their duty. To the contrary, the Global Case Management System notes show that IRCC has been actively reviewing the Applicants' file since February 2023, well before the present application was filed, which includes completing security and background checks. The Applicants' suggestion that the Minister is intentionally delaying the process is mere speculative and not supported by the evidence.

[32] The Applicants also raise issues of procedural fairness, and that procedural obligations were heightened by the best interest of the child and the investment they made in moving to Canada, relying on the permanent residence program. I find no merit in this argument. As conceded by the Applicants at the hearing, it was their decision to move to Canada while their PR applications were being processed. They had the option of remaining in China while awaiting the outcome of their applications. While I sympathize with the Applicants wanting a better future for their child, I do not find that these circumstances gave rise to heightened procedural fairness. Moreover, I do not find that the Respondent made any clear, unambiguous or unqualified representations to the Applicants regarding the processing of their PR applications.

[33] Mr. Bourassa states in his affidavit that as of October 7, 2025, 553 persons have already been admitted in the QBC, which is higher than the number requested by the Government of Québec. The final decision approval target for 2025 is now centrally managed by the International Platform at IRCC. The final decision approval target for the QBC is limited to only 165 persons, and specific targets have been allocated to consular offices with the Consulate in Hong Kong's approval target set at 110 persons. The Applicants know that there are around 230 files ahead of them.

[34] At the hearing, the Applicants maintained that they are not seeking to go to the front of the queue. They say that all they want is a decision on their PR applications, whether it be positive or negative. However, requiring the Minister to both review and render a decision on the Applicants' PR applications would be akin to jumping the queue, to the prejudice of applicants who applied earlier.

[35] The Applicants know where they stand in the processing queue. It is for them to decide whether it is in their best interests to continue to wait for their PR applications to be finalized or to withdraw them.

IV. Conclusion

[36] It is not this Court's role to intervene in this case and compel the Minister to make a decision on the Applicants' applications before those of other applicants who have been duly waiting in the queue.

[37] The application for judicial review seeking an order of *mandamus* is accordingly dismissed.

[38] The parties agree that there is no question to certify.

JUDGMENT IN IMM-22879-24

THIS COURT'S JUDGMENT is that:

1. The application is dismissed.
2. There is no question for certification.

"Roger R. Lafrenière"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-22879-24

STYLE OF CAUSE: SHENGYONG WANY ERKANG LIN JAIYI LIN v
THE MINISTER OF CITIZENSHIP AND
IMMIGRATION

PLACE OF HEARING: OTTAWA, ONTARIO

DATE OF HEARING: NOVEMBER 12, 2025

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: NOVEMBER 17, 2025

APPEARANCES:

Erkang Lin

FOR THE APPLICANTS
(ON THEIR OWN BEHALF)

Andrew Newman

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Attorney General of Canada
Ottawa, Ontario

FOR THE RESPONDENT