

CANADA / JUDGMENT

Khajir v. Canada (Citizenship and Immigration)

2026 FC 258

COURT

Federal Court

DECIDED

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Khajir v. Canada (Citizenship and Immigration)

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Decision Content

Date: 20260224

Docket: IMM-698-25

Citation: 2026 FC 258

Ottawa, Ontario, February 24, 2026

PRESENT: Madam Justice Azmudeh

BETWEEN:

MOHAMMADSADEGH KHAJIR

SORAYA SHAHABADI

MOHAMMADMATIN KHAJIR

Applicants

and

MINISTER OF IMMIGRATION

AND CITIZENSHIP

Respondent

JUDGMENT AND REASONS

I. Overview and Relevant Facts [1] The Principal Applicant, Mr. Mohammadsadegh Khajir (the Principal Applicant or PA), his wife, Ms. Soraya Shahabadi, and their son, Mohammadmatin Khajir, (collectively, Applicants) are Iranian citizens. They seek mandamus to compel the respondent, the Minister of Citizenship and Immigration (Minister) to make a decision on their Québec Investor permanent resident (PR) application.

- [2] When the Applicants applied in 2018, the standard processing time for their type of application was 46 months. By the time they filed this application in Federal Court, the Applicants had patiently waited over 72 months as IRCC processed their application.
- [3] On October 29, 2018, Immigration, Refugees and Citizenship Canada (IRCC) received the Applicants' application as an economic immigrant in the Quebec investor stream, and on December 31, 2018, IRCC notified the Applicants that they had begun processing their PR application. On September 15, 2022, the Principal Applicant received a request for additional documentation from IRCC's Paris office, to which he replied.
- [4] While Ms. Shahabadi passed her security screening on March 20, 2023, the PA's remained outstanding with no evidence of progress on his file. On November 25, 2025 (i.e. approximately six weeks before the judicial review), a procedural fairness letter (PFL) was sent to the Applicants, expressing concerns that the Principal Applicant may be inadmissible under paragraph 34(1)(f) of the Immigration and Refugee Protection Act, SC 2001 c 27 [IRPA].
- [5] The Applicant declared that for his compulsory military service in Iran, he was assigned to the Islamic Revolutionary Guard Corps' (IRGC) House construction unit from April 1993 to April 1995. This concern was raised because in June 2024, the Canadian government declared IRGC a terrorist organization.
- [6] The PA had made 3 status inquiries on his file in 2023 and 6 status inquiries in 2024. They all had remained unanswered.
- [7] When the Applicants submitted their PR application, the IRCC webpage listed that the standard processing time for Québec Business Class was 46 months. The Application had been processing for over 85 months before the PFL was issued.

[8] Also, at the time of the Application, the couple's son was only 10 years old. He is now 18 and may soon face compulsory military service in Iran.

II. Decision [9] For the reasons that follow, the Court remains seized of the matter. I order the Minister to provide the Court status updates on the underlying application.

III. Legal Issue and Framework [10] The test for mandamus is set out in *Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004 (FCA); aff'd 1994 CanLII 47 (SCC), which outlines the following requirements:

- (1) there must be a public legal duty to act;
- (2) the duty must be owed to the applicant;
- (3) there must be a clear right to performance of that duty;
- (4) where the duty sought to be enforced is discretionary, certain additional principles apply;
- (5) no other adequate remedy is available to the applicant;
- (6) the order sought will have some practical value or effect;
- (7) there is no equitable bar to the relief sought; and
- (8) on a balance of convenience an order of mandamus should be issued.

[11] The test is conjunctive, so all the criteria must be met to issue mandamus: *Lukacs v Canada (Transportation Agency)*, 2016 FCA 202 at para 29.

[12] *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 (Conille at para 23). 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 must not have provided satisfactory justification (Conille at para 23).

[13] 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 (Minister of Citizenship and Immigration)*, 2000 CanLII 16405 (FC) at para 1). I note that this case's facts, as they relate to the delayed and outstanding security check, 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]. Though Almasi and Jebelli both concerned citizenship applications, the unreasonable delay from those cases arose from delayed checks outsourced to a third party.

IV. Analysis [14] The Respondent does not argue that the Applicants have contributed to the delay under step 2 of Conille. The Respondent argues at step 3 of Conille that the delay is not unreasonable. The Respondent argued that two main issues justify the delay. The first is the PA's security clearance, and the second is the discretionary nature of the quota system under Québec's investor permanent residence program.

A. The Delayed Security Checks in the File Suggest the Delay was Unreasonable [15] I ultimately issue an order for mandamus. I note the following facts:

- [16] When the Applicants applied for permanent residence under the Québec investor program, they knew they faced a near-four-year processing time. However, by the time they filed their application for judicial review in Federal Court, they had waited an additional 26 months.
- [17] During these months, they complied with every request, and status checks remained outstanding. Until the Respondent sent a PFL to the PA on November 25, 2025, to which he has already responded, the Applicants had complied with requirements to file the necessary applications and had complied with all requests.
- [18] The Respondent articulated new concerns for the first time in the PFL. These concerns stemmed from the PA's compulsory military service in the Islamic Revolutionary Guard Corps (IRGC), a unit of the Iranian military Canada deemed to be a terrorist organization on June 19, 2024. The PA's compulsory military service took place between April 1993-April 1995.
- [19] I acknowledge that paragraphs 3(1)(h) and (i) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA], outlining 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. These requirements contemplate investigations for determining whether a potential applicant faces admissibility concerns.
- [20] Furthermore, 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).
- [21] However, this court has repeatedly found that the Respondent has a public duty to act in dealing with security clearances, including in cases when they are awaiting results from other agencies, such as the Canadian Security Intelligence Service (CSIS) (*Mamut v Canada* (Citizenship and Immigration) 2024 FC 1593). This Court has also repeatedly rejected unexplained and unjustified blanket statements on outstanding security checks to justify the delay (*Peng v Canada* (Citizenship and Immigration), 2025 FC 2 at para 21; *Mamut v Canada* (Citizenship and Immigration), 2024 FC 1593 at para 103 [Mamut]; *Sowane v Canada* (Citizenship and Immigration), 2024 FC 224 at para 29; *Ghalibaf v Canada* (Citizenship and Immigration), 2023 FC 1408 at para 14; *Jahantigh v Canada* (Citizenship and Immigration), 2023 FC 1253 at paras 19-25 [Jahantigh]; *Bidgoly v Canada* (Citizenship and Immigration),

2022 FC 283 at para 38; *Almuhtadi v Canada* (Citizenship and Immigration), 2021 FC 712 at para 40). Where the only outstanding issue is an unexplained delay in conducting security checks, the Court has found that the Respondent owes a public duty to similarly situated applicants and has ordered mandamus.

- [22] Given this Court's rejection of blanket statements on outstanding security checks and the Minister's unexplained delay until the PFL was issued, I grant the mandamus in part, ordering the Minister to complete the admissibility check within 90 days, as unreasonable delay is established for the period until the PFL was issued. I do not, however, ultimately grant mandamus for the entire application as unreasonable delay is not established with respect to the entire application. For the reasons that I will explain, given the quota-based system, where files are processed in the order of receipt, further evidence tendered by the Minister will be necessary to assess the reasonableness of the delay for the entire application.
- [23] In this case, the delay until further evidence was filed in November 2025 is unreasonable. It was only after the Bourassa affidavit was filed that the first come-first-serve nature of the quota-based system explained why unreasonable delay occurred (see header B of these reasons). However, the Respondent only heavily reduced the rate of processing under the Québec Economic Class in 2025.
- [24] Thus, for the period until November 2025, the Minister did not adequately explain the delay. On November 25, 2025, the Respondent finally articulated its specific security concerns to the PA, who then responded to them. Until then, the Applicants had exhausted all available means to advance and advocate for their application. They provided documents in time and made themselves available to complete requirements. They made multiple inquiries about the status of their application. The delay until the respondent initiated the PFL remains unexplained.
- [25] I find that the unexplained delay has significantly prejudiced the Applicants. The Respondent's security concerns stemmed from IRCG's terrorist designation in June 2024. These concerns would not have been triggered but for the Respondent's delayed processing of this application. The minor applicant was only 10 years old when the Applicants first applied to immigrate to Canada. He is now almost 18, approaches compulsory military service age in Iran, and may face his own admissibility concerns if he is assigned to IRCG. The significant prejudice caused by the Respondent's unexplained delay until November 25, 2025, tips the balance of convenience in favour of the Applicants.
- [26] I order the Minister to make a decision on the Applicant's admissibility. I thus grant mandamus and accordingly order the Respondent to process the Applicant's admissibility check within 90 days. Given the PFL and the PA's response to it, there is no need for the Respondent to not be able to make a decision on his admissibility in a timely fashion.

B. The Québec Investor Program's Quota System Prevents Mandamus From Being Ordered With Respect to the Application [27] However, mandamus will not yet compel the Minister to render a decision on the underlying application. The evidentiary foundation for such a decision is lacking, and I will remain seized of the matter as a result. I also order the Minister, should the application not be processed within the 90-day timeline for the issuance of the decision on admissibility, to provide the Applicant with their exact position in the processing queue.

- [28] The Respondent made their argument on the specific nature of the Québec program under which the application was filed for the first time in their further memorandum dated November 25, 2025. The Applicant could respond only at the hearing. Based on the Respondent's evidence and arguments, and with respect to the processing of the application as a whole, the Applicants instead sought the remedy of knowing where they stand in the queue.
- [29] The Respondent is correct that, according to subsection 10(2) of IRPA, the Minister must consult with the government for each of the provinces with respect to the number of immigrants expected in each class and their distribution in Canada, taking into account regional and demographic requirements and settlement issues. The Minister accounts for the needs the provinces express in preparing their annual immigration plan.
- [30] According to subsection 12(a) of the Canada-Québec Accord Relating to Immigration and Temporary Admission of Aliens, 5 February 1991 (Canada-Québec Accord), Québec has exclusive jurisdiction over the selection of immigrants, in economic classes and refugee overseas classes, destined to Québec.
- [31] Accounting for Québec's advice on the number of immigrants it wants to receive, Canada establishes levels of immigration annually. In line with the wording of paragraph 11(a) of Annexe A of the Canada-Québec Accord, Canada shall inform Québec, to the extent possible before April 30 of each year, of the options being considered regarding future immigration levels it plans to set for the coming year or years, broken down into various immigration classes. In turn, in line with paragraph 11(b) of Annexe A of the Canada-Québec Accord, Québec shall inform Canada, to the extent possible before June 30 of each year, of the number of immigrants it wishes to receive in the coming year or years, also broken into classes.
- [32] In October 2024, the Minister provided details regarding the Immigration Levels plan for 2025, 2026, and 2027. The Government of Canada established that a total of 395,000 individuals were expected to become permanent residents of Canada in 2025. From that number, 34,500 individuals would become permanent residents in the Québec Skilled Workers and Business Class. The Québec Immigration Plan intends to admit between 400 and 500 persons in the Québec Business Class in 2025.

- [33] According to the Respondent's affidavit evidence, applications are processed on a first in, first out basis depending on when the appropriate migration office receives them. In other words, the applications are processed in order of receipt. Application processing is done on each individual file, regardless of country of origin, in order to ensure that applications comply with the IRPA and that the applicants are eligible and not inadmissible.
- [34] The Respondent notes that as of October 8, 2025, 553 persons had already been admitted to Canada in the Québec Business Class and there were an additional 22 persons in the landing inventory. The International Platform Branch also has a remaining inventory of 3,881 persons to process. As the inventory is bigger than the expected admission, the inventory is larger than the number IRCC can finalize in 2025.
- [35] Delay is to be expected when the Minister can only admit a limited number of applicants. As Justice Lafrenière has recently highlighted, citing Justice Mosely, "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" (Wang v Canada (Citizenship and Immigration), 2025 FC 1832 at para 30 [Wang], citing Mersad v Canada (Citizenship and Immigration), 2014 FC 543 at para 27).
- [36] However, targets are processed on an office-by-office basis, which may affect whether a given delay is unreasonable. The Applicants' application is being processed in Paris, France. In 2025, the Embassy of Canada in Paris' target was to process approvals for 12 persons in the Québec Business Class category. This target was allocated considering the criteria mentioned above to ensure that applications are processed in the International Platform at the same pace considering the age of the inventory in each migration office. As of October 8, 2025, the Embassy of Canada in Paris had made final decisions on 6 individuals in the Québec Business Category for the year 2025.
- [37] The Respondent argues that the highly discretionary nature of the application for permanent residence in the Québec selected investor program does not warrant issuing mandamus. The Applicant argues that the Respondent's own evidence shows that processing is not random or discretionary, but takes place on a first-in, first-out system.
- [38] Once there is delay in processing, and in this case, the delay has nearly doubled the expected wait time of 46 months, the respondent bears the onus to provide a satisfactory justification for the delay in processing the underlying application (Alasmar v Canada (Citizenship and Immigration), 2025 FC 1260 at para 41; Jahantigh at para 25; Sharafaldin v Canada (Citizenship and Immigration), 2022 FC 768 at para 60 [Sharafaldin]; Conille at para 23). The record in a mandamus application is not fixed. As Justice Norris has expressed, the "decision-making process can still be ongoing" even after the CTR is produced (Abu v Canada (Citizenship and Immigration), 2021 FC 1031 at para 36).
- [39] I agree with the Applicant that the appropriate remedy at this stage is to provide information concerning the Applicant's place in the queue, but for different reasons. The Court cannot assess the unreasonableness of the delay without the appropriate evidence. In Gentile v

Canada (Citizenship and Immigration), 2020 FC 452 [Gentile], Justice McHaffie dealt with IRCC's suspension of a citizenship application pending a CBSA admissibility investigation (paras 27–28). Justice McHaffie rightly concluded that the Minister cannot “shield a suspension... from substantive review of its reasonableness on the basis that the investigation in question is being conducted by another department of the federal government” (Gentile at para 30, citing *Niu v Canada (Citizenship and Immigration)*, 2018 FC 520 at para 14, *Zhang v Canada (Citizenship and Immigration)*, 2019 FC 938 at para 38). Justice McHaffie remarked:

“the Court must have some information on which to assess the reasonableness of a suspension. It cannot simply base its assessment on unsupported assumptions about how long an investigation of a particular type of matter might be expected to take. If IRCC is not itself conducting the investigation, it must obtain adequate information from the federal government department conducting it to allow the Court to assess the reasonableness of the suspension, or explain why such information cannot be obtained, or risk the Court finding the suspension unreasonable for want of reasonable justification.” (Gentile at para 32).

- [40] Gentile's context differed from this case's. Gentile concerned a suspended citizenship application under section 13.1 of the Citizenship Act, RSC 1985 c C-29. However, I find Justice McHaffie's comments on the need to provide satisfactory evidence relevant here. The Québec Investor Class is a very particular context. As the Minister's affiant has explained here and in *Wang*, decision-makers assess applications on a first-in, first-out basis rather than discretionarily. The Minister knows the Applicant's specific position in the queue.
- [41] In *Wang*, the same affidavit evidence on the nature of the Québec program was before the Court. As here, there was no dispute that the Minister owes a public legal duty to the Applicants to process their PR applications (*Wang* at para 22). Justice Lafrenière did not order mandamus, but only because, unlike here, unreasonable delay was not established (*Wang* at para 22).
- [42] Justice Lafrenière found that seeking a final decision, whether positive or negative, was analogous to queue-jumping, something that the Court cannot order. For the same reasons as in *Wang*, I do not order mandamus on the processing of the application, which would require the Respondents to move the Applicants to the front of the queue for a final decision.
- [43] In this case, there was a significant and unexplained delay, to which the Applicants have not contributed. Furthermore, the Applicants are no longer seeking mandamus with respect to the application. The Applicants only want to know where they stand in the queue to plan their next move. By contrast, in *Wang*, Justice Lafrenière found that the applicants knew where they stood in the processing queue and could therefore decide whether they wished to continue to wait for processing (*Wang* at paras 34–35).

- [44] The differences between Wang and this case warrant granting this remedy. In Wang, the Global Case Management System notes showed IRCC's active review and that the suggestion that the Minister intentionally delayed the process was speculative (Wang at para 31). Here, the Minister filed the PFL shortly before the Application was due to be heard, occasioning an additional admissibility check that would not have been required but for their delay. The Application also had not moved in 2023 and 2024 despite the PA's repeated inquiries.
- [45] At this time, the Court lacks the evidence to assess whether delay was unreasonable, and as the Minister's evidence establishes, that evidence is easily available to the decision-maker: Gentile at para 32. In this context, one way the Minister may provide sufficient information on the reasonableness of the suspension is to provide the Court and the Applicants information regarding where the Applicants stand in the processing queue.
- [46] Constraining the Minister's authority in certain relevant ways on a mandamus is well established in the jurisprudence, as Justice Norris highlighted in Sharafaldin at paras 40–41:
- [40] In some cases, an applicant for judicial review may maintain that, separate and apart from any question of unreasonable delay, they are entitled not only to a decision but to a particular outcome. Mandamus in this form is available "only where the facts and law are such that the administrative decision-maker has no choice and must determine the matter in a particular way" (*Sexsmith v Canada (Attorney General)*, 2021 FCA 111 at para 40). This is consistent with the general proposition that, in exceptional circumstances, a reviewing court may render the decision that should have been rendered by the administrative decision maker when that decision maker "could not reasonably come to any other decision on the facts and the law" (*Canada (Attorney General) v Philips*, 2019 FCA 240 at para 41). This is warranted because "no practical end" would be served by returning the matter to the decision maker: see *Stemijon Investments Ltd v Canada (Attorney General)*, 2011 FCA 299 at paras 52-53. As well, prolonging the matter by referring it back to the administrative decision maker could cause prejudice to the affected party and undermine confidence in the administration of justice: see *Philips* at para 42; see also *LeBon v Canada (Attorney General)*, 2013 FCA 55 at para 14, and *Canada (Citizenship and Immigration) v Tennant*, 2019 FCA 206 at paras 72-74 ("*Tennant FCA*"). The reviewing court will therefore make an exception to the usual rule and decide the underlying matter on its merits.
- [41] I do not understand Mr. Sharafaldin to go quite this far in his request for relief. That is to say, I do not understand him to be asking the Court to declare that he is a Canadian citizen (as occurred in *Fisher-Tennant v Canada (Citizenship and Immigration)*, 2018 FC 151 [appeal by the Minister quashed: see *Tennant FCA*]). Nor does he ask the Court to order the Minister to grant him citizenship (as occurred in *Murad v Canada (Citizenship and Immigration)*, 2013 FC 1089, and *Stanizai v Canada (Citizenship and Immigration)*, 2014 FC 74, for example). Rather, he argues that the Minister's consideration of his citizenship application should be constrained in certain material respects both as a remedy for the prejudice he has suffered because of the long delay in the processing of his citizenship application and to forestall any additional undue delay.

[47] The Respondent cannot escape accountability indefinitely by making the process more opaque than necessary (Gentile at para 30). I find that knowing where the Applicants are situated in the queue will also mitigate some of the prejudice they have suffered as they can better decide their next immigration move. Such a remedy will not affect other PR applicants, nor does it interfere with the Federal and Provincial Governments' priorities (Javid v Canada (Citizenship and Immigration), 2023 FC 1440 at para 33).

[48] Since the Applicant does not know where they are in the queue, they cannot meaningfully engage with the Apotex test as it pertains to the application. Without this information, they cannot comment on the reasonableness of the delay. However, with that information, this Court may have to revisit this application, at which time the parties will be allowed to file additional materials.

V. Conclusion [49] For these reasons, the applications for judicial review are allowed in part. The Court's judgment is set out below.

[50] Neither party proposed a question for certification, and I agree that none arises.

JUDGMENT IN IMM-698-25

THIS COURT'S JUDGMENT is that

The application is allowed in part.

The Respondent shall make a decision on the Principal Applicant's admissibility within 90 days of the date of this order.

Unless the Respondent makes a final decision on the Applicants' application for permanent residence, the Respondent shall notify the Applicants and the Court within 90 days of the date of this order as to where in the queue in the Embassy of Canada in Paris they are situated. The Respondent shall provide the Applicants with a status update with respect to their position in the queue every 60 days after.

Unless the Respondent makes a final decision on the Applicants' application for permanent residence, the Respondent shall report to the Court on the status of the Applicants' application for permanent residence within 90 days from the date of this Order, and every six months thereafter until processing of that application is completed or until further order of the Court.

I will remain seized with this matter and the parties can apply to the Court to revisit the reasonableness of the delay for a final order.

There are no questions to be certified.

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"Negar Azmudeh"

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Judge

FEDERAL COURT

SOLICITORS OF RECORD

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AZMUDEH J.

DATED:

FEBRUARY 24, 2026

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