

CANADA / JUDGMENT

Luo v. Canada (Citizenship and Immigration)

2026 FC 181

COURT

Federal Court

DECIDED

9 February 2026

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Luo v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-02-09 Neutral citation 2026 FC 181 File numbers IMM-3476-25 Decision Content Date: 20260209 Docket: IMM-3476-25 Citation: 2026 FC 181 Ottawa, Ontario, February 9, 2026 PRESENT: The Honourable Mr. Justice Zinn BETWEEN: QINHUA LUO Applicant 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 Mr. Qinhua Luo's [the Applicant] application for permanent residence under Ontario's Provincial Nominee Program [PNP].
- [2] Two days before the scheduled hearing, the Respondent provided this Court with an affidavit attaching the updated notes from the Global Case Management System [GCMS]. The notes record that correspondence was sent to the Applicant on January 26, 2026, requesting his attendance at an interview with the Canadian Security Intelligence Service [CSIS] on January 30, 2026.
- [3] This eleventh-hour effort to advance the Applicant's application, however, does not mitigate the extended period of delay, particularly where the Respondent and IRCC have provided no substantive explanation beyond a bare assertion that security screening remains ongoing. That said, as the delay in this matter has largely been attributable to pending security screening, the scheduling of this interview constitutes a meaningful step toward advancing the application.
- [4] For the reasons set out below, the application for judicial review is allowed.
- [5] The Applicant is a Chinese national who, on April 12, 2022, submitted his application for permanent residence. On March 7, 2023, a security screening request was submitted for the Applicant, and the results remain pending.

- [6] On March 20, 2023, approximately one year later, the Applicant inquired with IRCC regarding the status of his application. He made six additional inquiries over the following year. IRCC responded on June 14, 2023, advising that the application remained in process; on May 7, 2024, indicating that it was pending additional verifications; and on July 2, 2024, again stating that it remained in process. No responses were provided to the inquiries dated November 30, 2023, January 10, 2024, or February 9, 2024.
- [7] On November 28, 2024, counsel for the Applicant sent a letter to the Department of Justice entitled “Request for Immediate Review and Action Regarding Unreasonable Delay in Application Processing” by email. He did not receive a response.
- [8] The sole issue is whether the Applicant has demonstrated that an order for mandamus is warranted.
- [9] The remedy of mandamus falls within the Court’s discretion. The test was established in *Apotex Inc v Canada*, 1993 CanLII 3004, [1994] 1 FC 742 (CA), and affirmed by the Supreme Court of Canada in [1994] 3 SCR 110 at 766–769. The elements of the test are: 1) That there must be a public legal duty to act; 2) That the duty must be owed to the applicant; 3) That 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.
- [10] All elements of the mandamus test must be established before the Court may exercise its discretion to grant the remedy: *Ur Rehman v Canada (Citizenship and Immigration)*, 2025 FC 388 at para 9 [*Ur Rehman*].
- [11] Whether a delay is unreasonable is assessed under the third *Apotex* factor: *Bidgoly v Canada (Citizenship and Immigration)*, 2022 FC 283 at para 15. Where an authority fails to perform a public duty within a reasonable time, that inaction may amount to an implied refusal to act: *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.
- [12] To demonstrate a clear entitlement to the performance of a public duty, an applicant must establish that the delay in processing their application is unreasonable. This requires proof that (i) the delay exceeds what the nature of the process would ordinarily require, (ii) the applicant has not contributed to the delay, and (iii) the responsible authority has failed to offer a satisfactory explanation for it: *Conille v Canada (Minister of Citizenship and Immigration) (TD)*, 1998 CanLII 9097 (FC), [1999] 2 FC 33 at 43 [*Conille*]. As the Respondent does not allege the Applicant contributed to the delay, the analysis turns on whether the length of the delay is excessive and whether it has been adequately justified.

- [13] Although not determinative, IRCC's published processing times for comparable applications provide a useful benchmark in assessing whether a delay is unreasonable: *Javed v Canada* (Citizenship and Immigration), 2025 FC 987 at para 13; *Mamut v Canada* (Citizenship and Immigration), 2024 FC 1593 at para 94; *Saravanabavanathan v Canada* (Citizenship and Immigration), 2024 FC 564 at para 30.
- [14] IRCC acknowledges that the Applicant's application has exceeded typical processing timelines. The Applicant reports that the average processing time for Ontario Provincial Nominee Program permanent residence applications submitted outside Express Entry is approximately 21 months (91 weeks). By the time the Applicant filed his memorandum, he says that more than 34 months (148 weeks) had elapsed since submission. As of the date of this judgment, the application has been pending for approximately 45 months (195 weeks), representing a delay of roughly 24 months (104 weeks) beyond the stated average.
- [15] On the record before this Court, I am satisfied that the delay in processing this application exceeds what the nature of the process would *prima facie* require. The remaining question is whether that delay has been adequately justified.
- [16] The Applicant's security screening has remained pending since March 7, 2023. The Respondent asserts that this ongoing process justifies the delay. In their words: Security screening is a necessary and important requirement under the IRPA which may justify lengthy processing delays. This Court has recognized the importance of not aborting or abbreviating investigations for admissibility. The Applicant's file is being assessed for admissibility which is integral to the processing of the application for permanent residence. Therefore, Court intervention and an order of mandamus are not warranted.
- [17] Indeed, there exists a need to balance the protection of the public with the interests and rights of the applicant: *Bidgoly v Canada* (Citizenship and Immigration), 2022 FC 283 at para 45, citing *Dhahbi v Canada* (Citizenship and Immigration), 2004 FC 1702 at paras 40–41.
- [18] While security screening is an important statutory requirement and may account for some processing delay, this Court has consistently rejected bald or conclusory assertions of ongoing screening as a sufficient justification for prolonged 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* at paras 36–37; and *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.

- [19] There is no indication that the Applicant's application presents unusual complexity or falls outside routine processing. The Respondent has provided no evidence explaining the cause of the extended timeline for security screening, despite bearing the onus to do so: *Liu v Canada (Citizenship and Immigration)*, 2025 FC 1718 at para 17. In the absence of a justified explanation, the Respondent has failed to provide a reasonable justification for the prolonged delay in processing the Applicant's application.
- [20] As the Federal Court of Appeal held in *Khalil v Canada (Secretary of State)*, [1999] 4 FC 661 (CA), under the *Apotex* framework, the Court retains discretion to refuse mandamus where the public interest outweighs the interests of a party otherwise entitled to relief.
- [21] The Respondent contends that the balance of convenience does not support the issuance of mandamus. In its submission, expediting processing in this case could compromise the integrity of security screening and weaken the broader immigration framework designed to protect public safety.
- [22] I find the balance of convenience in this matter favours the Applicant. While I accept that the Applicant has identified some hardship arising from the delay, proof of prejudice is not a prerequisite to establishing unreasonable delay. Recent jurisprudence from this Court confirms that an applicant need not demonstrate prejudice to obtain mandamus relief: *Yang v Canada (Citizenship and Immigration)*, 2025 FC 1687 at para 15; *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; *Tousi v Canada (Citizenship and Immigration)*, 2025 FC 671 at paras 11–17.
- [23] Importantly, the Applicant has not been provided with any explanation as to why his case attracts additional scrutiny sufficient to justify the delay. If public safety concerns are at issue that rationale should be communicated either to the Applicant during the processing of the application, or placed before this Court for review.
- [24] The forthcoming CSIS interview appears to represent a step toward completion of the outstanding security screening at issue. However, there have been no assurances offered that a final decision will be made shortly after that interview. Therefore, the need for a mandamus Order remains.
- [25] No question was proposed by either party to be certified. JUDGMENT in IMM-3476-25 THIS COURT'S JUDGMENT is that: The application for judicial review is granted. A writ of mandamus is ordered compelling IRCC to process and determine the Applicant's permanent residency application within 90 days of this Order. There is no question of general importance to be certified. "Russel W. Zinn" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-3476-25 STYLE OF CAUSE: QINHUA LUO v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: January 28, 2026 JUDGMENT and reasons: ZINN J. DATED: february 9, 2026 APPEARANCES: Mohammad Mirabdolbaghi For The Applicant Meva Motwani For The Respondent SOLICITORS OF RECORD: Golden Maple Law LLP TORONTO, ON For The

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