

CANADA / JUDGMENT

Naeemi v. Canada (Citizenship and Immigration)

2026 FC 550

COURT

Federal Court

DECIDED

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Naeemi v. Canada (Citizenship and Immigration)

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Decision Content

Date: 20260424

Docket: IMM-16098-24

Citation: 2026 FC 550

Ottawa, Ontario, April 24, 2026

PRESENT: The Honourable Madam Justice Kane

BETWEEN:

ABDUL JABBAR NAEEMI

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

- [1] The Applicant, Abdul Jabbar Naeemi [Mr. Naeemi] brings this Application for Judicial Review [the Application] seeking a writ of mandamus to compel the Respondent, the Minister of Citizenship and Immigration [the Minister], to render a decision on his application for Permanent Residence in Canada pursuant to an inland spousal sponsorship [PR Application]. Mr. Naeemi notes that he submitted his PR Application in 2020 and despite numerous inquiries about the status of his application, no decision has been rendered.
- [2] For the reasons elaborated on below, the Application is dismissed; Mr. Naeemi has not established that mandamus is warranted. The delay in processing Mr. Naeemi's PR Application, although lengthy, is not unreasonable given the justification provided by the Respondent, which is supported by the evidence on the record. The evidence on the record demonstrates serious security concerns with respect to Mr. Naeemi, given his background, justifying the need for and length of the security screening process and the resulting delay in finalizing the PR Application.
- [3] Mr. Naeemi's Application for mandamus can be distinguished from other cases where the Respondent has relied on a "blanket statement" that the delay is caused by security screening, without further explanation or support. The evidence on the record demonstrates consistent activity by Immigration, Refugees and Citizenship Canada [IRCC], including several requests for status updates from its security partners in response to the Mr. Naeemi's inquiries. Given Mr. Naeemi's profile, the security concerns noted in the record, the redacted security assessments provided, and the ongoing and recent activity regarding an admissibility interview, the delay is justified.

I. Background [4] Mr. Naeemi, a citizen of Afghanistan, is a former diplomat and former Governor of several Afghan provinces. His wife and children are Canadian citizens, although it appears from the record that most of his family now reside outside of Canada.

- [5] In September 2020, Mr. Naeemi submitted his PR Application under the inland spousal sponsorship category. However, due to the requirement to submit a police certificate and subsequently, to pay the required fee, the Global Case Management System [GCMS] notes indicate that the PR Application was deemed complete in March 2021.
- [6] The GCMS notes indicate that on May 19, 2021, the eligibility requirements were satisfied and IRCC then forwarded the PR Application to its partners at the Canadian Border Services Agency [CBSA] for security screening. On November 25, 2021, IRCC requested an outstanding police certificate from Pakistan. On January 5, 2022, Mr. Naeemi submitted the police certificate. The GCMS notes acknowledge the criminality check and that the security screening continued.

- [7] On November 8, 2022, Mr. Naeemi submitted his medical reassessment. On November 9, 2022, a new medical certificate, valid for 12 months, was issued.
- [8] Between November 2022 and September 2023, Mr. Naeemi sent several inquiries to IRCC including via the office of a Member of Parliament. IRCC responded to most of the inquiries. For example, on June 2, 2023, IRCC requested updates from its security partners, who advised that as of June 5, 2023, the security screening remained in progress.
- [9] On January 8, 2024, a new medical certificate was issued to Mr. Naeemi valid for 12 months. The GCMS notes indicate that the security screening remained in progress.
- [10] On July 23, 2024, Mr. Naeemi requested that IRCC make a decision on his PR Application. On August 16, 2024, IRCC again requested a status update from its security partners. On August 26, 2024, IRCC's partners responded that screening remained in progress.
- [11] On September 4, 2024, Mr. Naeemi filed this Application seeking mandamus to compel the Minister to make a decision.
- [12] On March 6, 2025, Mr. Naeemi was issued another medical certificate.
- [13] On March 14 and 17, 2025, IRCC requested that Mr. Naeemi provide new biometric and fingerprint information. On March 21, 2025, IRCC advised its security partners of the biometric information. The GCMS notes indicate that the security review remained ongoing.
- [14] On April 8, 2025, Mr. Naeemi contacted IRCC requesting expeditious processing of his PR Application noting that his Ontario health card would expire in May 2025 and could not be renewed without first being granted permanent resident status and that his work permit would expire in September 2025.
- [15] On April 16, 2025, the Court issued an Order for production of the Certified Tribunal Record [CTR] from the Respondent.
- [16] On April 23, 2025, IRCC again requested an update from its security partners, who responded that the security review remained in progress.
- [17] The GCMS notes indicate that as of April 28, 2025, further review regarding Mr. Naeemi's "Admissibility-Security" was required. On May 2, 2025, Mr. Naeemi was notified that his file had been transferred within IRCC for this purpose.
- [18] On August 22, 2025, the Respondent brought a motion for non-disclosure of certain information in the CTR (in particular, information contained in the assessment by the Canadian Border Services Agency's [CBSA] Centre for Immigration National Security Screening [CINSS] and in the Security Screening Brief by the Canadian Security Intelligence Service [CSIS]) pursuant to section 87 of the Immigration and Refugee Protection Act, SC 2001, c 27 [the Act], on the basis that disclosure would be injurious to international relations, national defence or national security or endanger the safety of any person. Mr. Naeemi did not oppose the motion.

- [19] The Court determined the motion on November 3, 2025, and issued an Order to prohibit the disclosure of the information at issue. Mr. Naeemi was provided with the redacted CTR.
- [20] In January 2026, the Court granted leave for judicial review and the hearing was scheduled for April 21, 2026.
- [21] On March 19, 2026, IRCC sought information from Mr. Naeemi regarding his work history as Governor of the provinces of Khost, Laghman, and Kunduz, and as a diplomat in Pakistan, and details of his travel history. Mr. Naeemi responded.
- [22] On April 7, 2026, IRCC requested that Mr. Naeemi attend an admissibility interview, scheduled for April 15 or 16, 2026. Mr. Naeemi attended as requested.

II. The Applicant's Submissions [23] Mr. Naeemi submits that he meets all the criteria established in the jurisprudence for the court to issue mandamus. Among other things, he submits that the unreasonable delay in processing his PR Application amounts to a refusal to act, noting that IRCC's website indicates that the usual processing time for a PR Application is 12–13 months.

- [24] Mr. Naeemi submits that the Respondent has relied only on the "blanket statement" that security screening is pending, which is not a sufficient justification for the delay (relying on *Majidi v Canada (Citizenship and Immigration)*, 2025 FC 680 [Majidi]; *Almuhtadi v Canada (Citizenship and Immigration)*, 2021 FC 712 at para 40 [Almuhtadi]). He submits that the GCMS notes shed no light on the nature of the security concerns or the reason for the delay (relying on *Ghalibaf v Canada (Citizenship and Immigration)*, 2023 FC 1408 at para 14 [Ghalibaf]). He submits that his background in Afghanistan was known at the time of his PR Application and the recent inquiries could have been raised and addressed previously.
- [25] Mr. Naeemi suggests that IRCC can finalize any security concerns following the Court's mandamus order and within the 60-day period he seeks for the decision to be made.
- [26] Mr. Naeemi submits that the balance of convenience favours him. He notes that the delay in processing his PR Application has caused hardship. Among other things, he has been unable to travel outside of Canada and has missed important family visits and events, and the temporary suspension of his health insurance caused him to delay and reschedule critical medical tests and appointments. He adds that he cannot return to Afghanistan due to the instability there.
- [27] Mr. Naeemi also seeks costs due to the delay in processing his PR Application.

III. The Respondent's Submissions [28] The Respondent submits that Mr. Naeemi has not established that mandamus should be granted or that costs should be ordered; there has been no refusal to act and the GCMS notes show that the PR Application has continued to be processed.

- [29] The Respondent submits that stated processing times for PR applications are historical averages that reflect how long it took to process 80% of applications in the past; these are not service standards or commitments. The facts of each application inform whether the particular delay has been longer than the nature of the process required.
- [30] The Respondent alternatively submits that any delay has been adequately explained. Given Mr. Naeemi's profile, his PR Application is undergoing background and security screening, which is a necessary and important requirement under the Act. The Respondent notes that the Court has found that such screening may justify lengthy processing delays (Ghalibaf at para 13; Jaber v Canada (Citizenship and Immigration), 2013 FC 1185 at para 26 [Jaber]; Carrero v Canada (Citizenship and Immigration), 2021 FC 891 at paras 14–15 [Carrero]).
- [31] The Respondent submits that in the event that mandamus is granted, no costs are warranted, noting the high threshold and requirement for "special reasons" to be demonstrated in accordance with Rule 22 of the Federal Courts Rules, SOR/98-106 (citing, among other authorities, Kutirevs v Canada (Minister of Citizenship and Immigration), 2005 FC 1446 at para 14).

IV. The Issue [32] The issue in this Application is whether Mr. Naeemi has established that the Court should exercise its discretion to issue a writ of mandamus requiring IRCC to render a final decision within a fixed period of time (Mr. Naeemi requests 60 days). This turns primarily on whether the delay in processing and rendering a decision is unreasonable and amounts to an implied refusal to act, which also turns on whether the Respondent has established a justification for the delay.

V. The Guiding Jurisprudence [33] There is no dispute regarding the criteria for mandamus established in *Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004 (FCA) [Apotex], or the criteria that guide whether a delay is reasonable as established in *Conille v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 9097 (FC) [Conille].

- [34] There is a large volume of jurisprudence from this Court applying the Apotex and Conille factors in the context of a range of immigration applications, from study and work permits to permanent resident applications. The jurisprudence applies the same principles to the particular facts, but some divergence has emerged in how the Court assesses the reasonableness of the delay, which to some extent depends on the evidence provided by the Respondent to justify the delay, in particular where the delay is attributed to the need to conduct security screening.

- [35] The Apotex criteria require that the applicant establish that:

there is a public duty to act; the duty is owed to the applicant; there is a clear right to performance of that duty, in that the applicant has satisfied all conditions precedent giving rise to the duty and there was a prior demand for its performance, a reasonable time to comply with the demand and a subsequent refusal, either express or implied (i.e., by unreasonable delay); certain criteria are satisfied if the duty sought to be enforced is discretionary; (explained at pp 767 of

Apotex) no other adequate remedy is available to the applicant; the order will be of some practical value or effect; the court finds no equitable bar to the relief sought; and the balance of convenience favours issuing the order.

(see Apotex at pp. 766-769).

- [36] The factors set out in Conille inform the assessment of whether a delay is unreasonable under the third Apotex criterion. A delay will be unreasonable where (1) the delay has been longer than the nature of the process required, *prima facie*; (2) the applicant and their counsel are not responsible for the delay; and (3) the authority responsible for the delay has not provided a satisfactory justification (at para 23).
- [37] More recently, in *Benison v Canada* (Royal Canadian Mounted Police External Review Committee), 2026 FCA 53 [Benison], the Federal Court of Appeal clarified several aspects of the Apotex test, some of which are relevant in this case.
- [38] The Court of Appeal noted that while all the Apotex criteria must be met, the first four criteria inform whether the applicant has demonstrated that they would be entitled to mandamus, and the last four inform whether the court should exercise its discretion to deny mandamus where the applicant would otherwise be entitled (at para 45).
- [39] With respect to unreasonable delay, the Court of Appeal explained that the first Conille factor addresses the time requirements inherent in the administrative proceedings in light of the legal and factual complexities dealt with by the administrative decision-maker. The requirements of a fair process, the purpose of the proceedings and the rights and interests of those affected by them must be considered (at para 77). The nature and purpose of the proceedings are contextual factors that should be considered in deciding whether the delay has been *prima facie* longer than the nature of the process requires (at para 81). Service standards set by the administrative decision-maker are relevant to ascertaining the time required by the nature of the process but are not determinative (at para 91).
- [40] Where an applicant establishes that the delay in deciding their case exceeds the time requirements inherent to the administrative proceedings, the onus shifts to the respondent to adduce evidence to demonstrate that there is a satisfactory justification (at para 98). The respondent must provide evidence linked specifically to the delay faced by the particular applicant (at paras 118-119, 129).
- [41] Evidence of significant prejudice is not required to establish unreasonable delay but may become relevant at the balance of convenience stage (at paras 125-128).

[42] The Court of Appeal explained that the discretion to deny relief on the ground of balance of convenience should only be exercised in the clearest of circumstances and with great care. The court should only refuse to issue mandamus to an applicant otherwise entitled to mandamus where doing so would cause obvious and unacceptable administrative cost or chaos or where potential health and safety risks to the public would outweigh the applicant's right to pursue personal or economic interests (at paras 153, 161).

VI. The Application is Dismissed; mandamus is Not Granted A. The delay [43] As noted, the Respondent disputes that the delay in processing and rendering a decision on Mr. Naeemi's PR Application has been longer than the nature of the process requires. The Respondent alternatively submits that any delay is justified and has been adequately explained.

[44] Although service standards are relevant, they are not determinative in assessing whether the processing has exceeded the inherent time required by the nature of the process (Benison at para 91). Mr. Naeemi argues that the processing of his PR Application far exceeds the average processing time of 12–13 months posted on IRCC's website. The Respondent explains that the posted processing times are not a "service standard", but historical averages measured based on how long it took to process 80% of applications in the past and that the individual facts of each case must inform whether the delay in question has been longer than the nature of the process required. Whether characterized as a service standard or an average processing time, these time periods cannot be completely ignored.

[45] In the immigration context, some of the jurisprudence has agreed that IRCC's posted processing times are not guarantees (see e.g., *Jia v Canada (Citizenship and Immigration)*, 2014 FC 596 at para 92). Other jurisprudence suggests that posted processing times should be given weight because a baseline understanding of average processing times is needed to assess whether a specific delay is *prima facie* longer than the nature of the process requires (see e.g., *Jebelli v Canada (Citizenship and Immigration)*, 2025 FC 500 at para 17; *Mamut v Canada (Citizenship and Immigration)*, 2024 FC 1593 at para 94, both citing *Saravanabavanathan v Canada (Citizenship and Immigration)*, 2024 FC 564 at para 30).

[46] Benison provides additional guidance; an analysis of the nature and purpose of the proceedings is relevant to determining the inherent time requirements of an administrative process. Courts should focus on the substantive and procedural complexities inherent in the matter before the particular administrative decision-maker, as well as the objectives of the process and how it affects the rights and interests of those involved (at para 62). Tolerance of delay is likely to vary with the nature of the individual rights at stake in a proceeding.

[47] While the average processing time should be considered in assessing whether the delay in question has been longer than the nature of the process requires, the context and the individual facts are important considerations given that the complexity of different applications and applicants vary widely.

- [48] IRCC must ensure that PR applicants meet all the requirements of subsection 72(1) of the Immigration and Refugee Protection Regulations, SOR/2002-227, including that they are in Canada to establish permanent residence, and meet the selection criteria and other requirements applicable to the class in which they have applied (in this case the family class) and that they or their family members are not inadmissible to Canada.
- [49] An average processing time of 12–13 months may permit a comprehensive review to assess these requirements in many or most cases but may be insufficient time where IRCC requires assessments by partner agencies, including CSIS and CBSA, to conduct security screening in certain circumstances. Given Mr. Naeemi's profile as a diplomat and politician in Afghanistan for over 25 years, his PR Application appears to fall outside the 80% of applications that could be processed within the 12–13-month average time period.
- [50] The Court acknowledges that in *Doust v Canada (Citizenship and Immigration)*, 2025 FC 1546 [Doust], Justice Conroy accepted that average processing times only account for 80% of applications and not those involving security investigations. The absence of any evidence about processing applications requiring security screening led Justice Conroy to find that the delay in *Doust* was *prima facie* longer than the process required (see also *Javed v Canada (Citizenship and Immigration)*, 2025 FC 987 at paras 12–13). The Court notes that *Doust* was decided before *Benison*. In any event, in Mr. Naeemi's PR Application, the record provides the evidence demonstrating why a more complex security screening was needed, which would necessitate additional time.
- [51] However, the Respondent has not provided evidence about how much additional time is required to process applications that call for more complex security screenings. Given that the Court has no such baseline from which to gauge whether the time needed by the nature of the processing of Mr. Naeemi's PR Application is longer than the average processing time for applications with complex security concerns, which as noted, will vary widely, the Court can only conclude that the delay of now over five years is longer than the process requires.

B. Justification for the delay [52] The issue turns to whether the Respondent has an adequate justification for the delay. As noted in *Benison*, the complexities relating to the individual facts of a case should be considered in assessing the Respondent's justification (at paras 71, 79).

- [53] It is well-established in the immigration jurisprudence that security screening and assessments of admissibility are important, that such investigations must be comprehensive and approached with caution and rigor, and that they can justify lengthy delays (e.g., *Ghalibaf* at para 13; *Jaber* at para 26; *Carrero* at paras 14-15 and cases cited therein; *Ghaddar v Canada (Citizenship and Immigration)*, 2023 FC 946 at para 33 [Ghaddar]; see also *Chong v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 1335 at paras 14-15).
- [54] As Mr. Naeemi notes, "blanket statements" that security screening is in progress is not a sufficient explanation justifying delay; the Court requires some details about the security concerns at play or the cause of the delay (e.g., *Ghalibaf* at para 14; *Ghaddar* at para 33; *Majidi* at para 23; *Almuhtadi* at para 60; see also *Abdolkhaleghi v Canada (Minister of*

Citizenship and Immigration), 2005 FC 729 at para 26 [Abdolkhaleghi]; Liu v Canada (Citizenship and Immigration), 2025 FC 1718 at para 13). What will constitute an adequate explanation will depend on the relative complexity of the security considerations in each case (Abdolkhaleghi at para 26). The Court is also aware that in some cases, the Respondent cannot elaborate on the particular security concerns, as this information may be prohibited from disclosure.

- [55] Mr. Naeemi's contention that the Respondent has not provided any indication of the reason for the delay and relies only on a blanket statement regarding ongoing security investigations appears to overlook certain information on the record. The GCMS notes demonstrate ongoing security related inquiries by IRCC and responses. The unredacted parts of the assessment conducted for IRCC by the CINSS and the Security Screening Brief prepared by CSIS demonstrate that the security screening is necessary and has been comprehensive. The Respondent is not relying on a bare statement that security screening takes time. (In addition, Mr. Naeemi's own submissions disputing media reports about his time as Governor in Afghanistan, although not relevant to whether mandamus should issue, demonstrate that he is alert to some possible concerns and is alert to the fact that his profile would justify the security screening that has contributed to the delay in finalising his PR Application.)
- [56] Mr. Naeemi's submission that his background, including his role as Governor in Afghanistan, was known at the time of his PR Application, and that there are no security and inadmissibility issues—or that he could have provided a response or explanation and can still do so—and, therefore, there is no justification for the delay, is not persuasive. The CINSS assessment prepared by CBSA, although heavily redacted, publicly reveals that a recommendation was made to IRCC that there are reasonable grounds to believe that Mr. Naeemi is inadmissible to Canada pursuant to section 34(1) of the IRPA, in particular pursuant to paragraph 34(1)(d) (danger to the security of Canada). The public portion of the CINSS assessment demonstrates that Mr. Naeemi's political and diplomatic roles in the Government of Afghanistan for a lengthy period of time were of concern. The CSIS Security Screening Brief, also redacted, publicly reveals the role of CSIS in providing a Minister of the Crown with "information relating to security matters or criminal activities that is relevant to the exercise of any power or the performance of any duty or function by the Minister under the Citizenship Act or Immigration and Refugee Protection Act". Mr. Naeemi's background and profile adds another level of complexity in determining his PR Application that justifies the delay in rendering a final decision (see e.g., Sowane v Canada (Citizenship and Immigration), 2024 FC 224 at para 30 and Ghaddar at para 34, both citing Jaballah v Canada (Citizenship and Immigration), 2019 FC 1051).
- [57] Although the security screening, which appears to be the primary reason for the delay, has taken significant time, the record does not show large gaps without any action on the part of IRCC. The GCMS notes indicate that IRCC has taken steps to move the file forward, including seeking additional information from Mr. Naeemi, repeatedly requesting status updates from

its security partners and responding to Mr. Naeemi's inquiries. The time periods that suggest less activity coincide with security assessments conducted by CSIS and CBSA and the reports which were subsequently provided to IRCC in 2024 and 2025. The recent request by IRCC for further information, including travel history, and the scheduling of an admissibility interview indicate further progress.

- [58] Contrary to Mr. Naeemi's submission that any security concerns can continue to be addressed after mandamus is granted, investigations for admissibility should not be cut short as this could compromise the investigation and undermine IRCC's responsibility to assess admissibility to Canada (*Seyoboka v Canada* (Minister of Citizenship and Immigration), 2005 FC 1290 at para 9).

C. The balance of convenience need not be considered [59] In *Benison*, the Court of Appeal clarified that where an applicant has not demonstrated that they are entitled to mandamus on the basis of the first four *Apotex* criteria, there is no need to proceed to consider the final four criteria, including whether the balance of convenience favours the order: all the criteria must be satisfied (at para 45).

- [60] Given the Court's finding that although there has been a delay in rendering a final decision on Mr. Naeemi's PR Application, the Respondent has established a reasonable justification for the delay and there has been no refusal to act, there is no need to consider the balance of convenience.

D. No Costs are awarded [61] Costs generally follow the event. Mr. Naeemi's application for mandamus is not granted and there is no basis to award him costs.

- [62] In any event, an award of costs in immigration matters is exceptional and would only be granted when there are "special reasons" present, which have been defined as conduct that is unfair, oppressive, improper, motivated by bad faith, or results in undue prolongation of proceedings (*Adesina v Canada* (Citizenship and Immigration), 2010 FC 336 at para 13; see also, e.g., *Ndungu v Canada* (Citizenship and Immigration), 2011 FCA 208 at para 7). The Court acknowledges that costs have been awarded to successful mandamus applicants in some cases where this high threshold has been met on the particular facts (see e.g., *A.B.C.D. v Canada* (Citizenship and Immigration), 2025 FC 1296 at para 89 and cases cited therein). Here, there has no conduct or undue delay in the Court's proceedings that could have justified an award of costs, had mandamus been granted.

JUDGMENT in file IMM-16098-24

THIS COURT'S JUDGMENT is that:

The Application is dismissed.

No costs are ordered.

"Catherine M. Kane"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

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