

CANADA / JUDGMENT

Zheng v. Canada (Citizenship and Immigration)

2026 FC 245

COURT

Federal Court

DECIDED

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Zheng v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-02-20 Neutral citation 2026 FC 245 File numbers IMM-690-25 Decision Content Date: 20260220 Docket: IMM-690-25 Citation: 2026 FC 245 Ottawa, Ontario, February 20, 2026 PRESENT: The Honourable Madam Justice Turley BETWEEN: LIFU ZHENG Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. Overview [1] In February 2021, the Applicant applied for permanent residence under the Start-up visa [SUV] program. In accordance with the program requirements, his application was supported by a Commitment Certificate issued under subsection 98.03(1) of the Immigration and Refugee Protection Regulations, SOR/2002-227 [IRPR] by a designated organization, Biomedical Commercialization Canada Inc., operating as Manitoba Technology Accelerator [Designated Entity].

- [2] The Applicant seeks a writ of mandamus, compelling Immigration, Refugees and Citizenship Canada [IRCC] to render a decision on his SUV application. The Applicant asserts that the processing time of five years is excessive and that his security screening was completed in October 2025, over four months ago.
- [3] I agree with the Respondent that the first requirement of the legal test for mandamus — that there must be a public legal duty to act — is not met in this case. In December 2025, the Minister of Citizenship and Immigration suspended the Designated Entity's ability to make commitments, in accordance with paragraph 98.03(4)(a) of the IRPR. In addition, the Minister paused the processing of all SUV applications supported by the Designated Entity, pursuant to paragraph 98.03(4)(b) of the IRPR while the entity's suspension is in effect. On this basis, IRCC is currently unable to process the Applicant's SUV application. This application for judicial review must therefore be dismissed. II. Background [4] In July 2023, the Applicant passed the required eligibility, medical, and criminality assessments: Global Case Management System [GCMS] notes, Certified Tribunal Record [CTR] at 692–696. His application was then referred for security screening, with an initial due date of April 3, 2024: GCMS Information Request, CTR at 35.

- [5] In December 2024, the Applicant's solicitor sent IRCC a demand letter. At that point, his application had been pending for 46 months, 6 months longer than IRCC's published processing time. The Applicant requested that his application be finalized within 15 days, failing which, he would file an application seeking a writ of mandamus: Letter dated December 23, 2024, CTR at 20–22. The Applicant filed this application for judicial review in January 2025.
- [6] Although the precise timing is unclear, the Applicant filed a complaint with the National Security and Intelligence Review Agency [NSIRA] regarding delays by the Canadian Security Intelligence Service [CSIS] in completing the Applicant's security screening. By letter dated November 28, 2025, CSIS advised NSIRA that, in August 2023, CSIS had received a security screening request with respect to the Applicant's permanent residence application. CSIS further advised that it provided its security screening advice to the requesting client department on October 1, 2025, and that its role in the security screening process was now complete: Letter dated November 28, 2025, Affidavit of Lifu Zheng, sworn January 17, 2026 [Zheng Affidavit], Exhibit A at 1.
- [7] On January 12, 2026, the Applicant was advised that the Minister of Citizenship and Immigration had suspended the Designated Entity's ability to make commitments pursuant to subsection 98.03(4) of the IRPR, effective December 19, 2025, and that the suspension was valid for nine months (until September 19, 2026). IRCC further advised that "[d]uring the suspension, IRCC will not process applications supported by commitments made by this designated organization, with the exception of work permit renewals if the applicant is in Canada": Email dated January 12, 2026, Zheng Affidavit, Exhibit C at 2. III. Analysis A. The proper named respondent is the Minister of Citizenship and Immigration [8] The Respondent argues that the Applicant improperly named the Minister of Public Safety and Emergency Preparedness [MPSEP] as a respondent in this application. They assert that, in accordance with subsection 4(1) of the Immigration and Refugee Protection Act, SC 2001, c 27 [IRPA], and paragraph 5(2)(b) of the Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22, the only proper respondent is the Minister of Citizenship and Immigration because that is the Minister responsible for the administration of the IRPA in respect of the matter under review.
- [9] On the other hand, the Applicant maintains that both Ministers are properly named as respondents, relying on this Court's decision in *Saravanabavanathan v Canada* (Citizenship and Immigration), 2024 FC 564 [Saravanabavanathan]. In that mandamus case, the processing of the applicants' permanent residence applications had been delayed due to security screening. The Court decided not to remove the MPSEP as a respondent, finding that, in assessing the admissibility of permanent resident applications, the MPSEP plays "an integral role in the decision-making process": *Saravanabavanathan* at para 11. The Court further acknowledged the applicants' concern that if the Minister of Citizenship and Immigration was the sole respondent, but was not responsible for the processing delays, any court order "would have, at best, only an indirect application to the agency at the root of the

delay”: Saravanabavanathan at para 12.

- [10] In this case, I find that the only proper respondent is the Minister of Citizenship and Immigration. While the Respondent initially justified the delay in processing the Applicant’s SUV application based on pending security screening, circumstances have since changed. Since January 2026, the processing of the Applicant’s SUV application has been paused due to the suspension of the Designated Entity under the IRPR. This development falls exclusively within the responsibility of the Minister of Citizenship and Immigration. There is thus no justification for the MPSEP to also be named as a respondent. B. Relevant legislative framework [11] The SUV program provides foreign entrepreneurs with an opportunity “to launch their start-ups in Canada while gaining a direct pathway to permanent residence”: *Serimbetov v Canada* (Immigration, Refugees and Citizenship), 2022 FC 1130 at para 15 [Serimbetov]. Under this program, designated entities (business incubators, angel investor groups, or venture capital funds) approved by the Minister of Citizenship and Immigration assess foreign entrepreneurs’ business proposals to identify innovative ventures: *Serimbetov* at para 15; IRPR, ss. 98.03–98.05.
- [12] When a designated entity identifies an applicant to support, it must submit a Commitment Certificate to IRCC that meets the requirements of section 98.04 of the IRPR. A designated entity must respect the conditions of the SUV program set out in subsection 98.03(3) of the IRPR.
- [13] Under subsection 98.03(4) of the IRPR, if there is reason to suspect that a designated entity does not meet the conditions set out in subsection 98.03(3), or has submitted false, misleading, or inaccurate information, the Minister of Citizenship and Immigration has the discretion to suspend their ability to make commitments, and may also refuse to consider SUV applications supported by commitments made by that suspended designated entity: Suspension Suspension
- (4) If there is reason to suspect that an entity does not meet the conditions or has submitted false, misleading or inaccurate information to the Minister, the Minister may
- (4) S’il y a des motifs de soupçonner que l’entité ne satisfait pas à ces conditions ou qu’elle a fourni au ministre des renseignements faux, erronés ou trompeurs, le ministre peut :
- (a) suspend the entity’s ability to make commitments; and
- a) suspendre le pouvoir de l’entité de prendre des engagements;
- (b) refuse to consider applications associated with commitments made by that entity.
- b) refuser de tenir compte des demandes liées aux engagements pris par l’entité.
- [14] The suspension of a designated entity “comes into force on the day on which the Minister issues a notice of the action to the entity and remains in effect until the earlier of the day on which the situation is resolved and the day that is nine months after the day on which the notice is issued”: IRPR, s 98.03(5). C. There is no public legal duty to act [15] The legal test for

mandamus is well established: *Apotex Inc v Canada (Attorney General)* (CA), 1993 CanLII 3004 (FCA), [1994] 1 FC 742 at 766–769, aff'd 1994 CanLII 47 (SCC), [1994] 3 SCR 1100 [Apotex]. The first requirement is that there must be a public legal duty to act. This is where the Applicant's mandamus application falls. There is thus no need to consider the other requirements.

- [16] The Respondent argues that there is no public legal duty to act, as the processing of the Applicant's application has been paused in accordance with paragraph 98.03(4)(b) of the IRPR based on the suspension of the Designated Entity under paragraph 98.03(4)(a). While there is no jurisprudence to this effect, the Respondent relies on decisions concerning the Minister of Citizenship and Immigration's authority to suspend the processing of a citizenship application under section 13.1 of the Citizenship Act, RSC 1985, c C-29 [Citizenship Act]. In my view, this jurisprudence is instructive.
- [17] Under section 13.1 of the Citizenship Act, the Minister has the authority to suspend an application "for as long as is necessary" to receive the results of an investigation into the admissibility of an applicant. When a citizenship application is reasonably suspended, there is no public legal duty to act and mandamus cannot issue: *Canada (Citizenship and Immigration) v Nilam*, 2017 FCA 44 at paras 26–27; *Alasmar v Canada (Citizenship and Immigration)*, 2025 FC 1260 at para 37; *Sharafaldin v Canada (Citizenship and Immigration)*, 2022 FC 768 at para 43; *Zhang v Canada (Citizenship and Immigration)*, 2019 FC 938 at para 35; *Nada v Canada (Citizenship and Immigration)*, 2019 FC 590 at para 21; *Niu v Canada (Citizenship and Immigration)*, 2018 FC 520 at para 3 [Niu]. The burden is on an applicant to establish that a suspension is unreasonable or invalid: *Onghaei v Canada (Citizenship and Immigration)*, 2020 FC 1029 at para 38; *Niu* at para 14; *Tayeb Ali v Canada (Citizenship and Immigration)*, 2016 FC 1051 at para 23.
- [18] Similarly, subsection 98.03(4) of the IRPR grants the Minister of Citizenship and Immigration the discretionary power to suspend the processing of an SUV application. As set out in paragraph 13 above, the Minister is authorized to take two specific actions where there is reason to suspect that a designated entity does not meet their conditions, or has submitted false, misleading, or inaccurate information. First, the Minister may suspend the entity's ability to make any further commitments under the SUV program: IRPR, s 98.03(4)(a). Second, the Minister may refuse to consider applications supported by a commitment made by that designated entity: IRPR, s 98.03(4)(b). In contrast to section 13.1 of the Citizenship Act, a suspension under subsection 98.03(4) of the IRPR is time limited. A suspension may only remain in effect for nine months: IRPR, s 98.03(5).
- [19] Here, the Applicant acknowledges that the Minister of Citizenship and Immigration is authorized to refuse to process SUV applications where the designated entity has been suspended under subsection 98.03(4) of the IRPR. He argues, however, that this authority does not extend to him because the Designated Entity already issued him a Commitment Certificate and his eligibility for the SUV program has already been determined. In that regard, he relies on evidence that he has passed the following assessments: eligibility,

criminality, and medical, and that information sharing is complete: GCMS Information Request, CTR at 34. The Applicant further contends that CSIS completed his security screening in October 2025, well before the suspension was invoked: Letter dated November 28, 2025, Zheng Affidavit, Exhibit A.

- [20] The Applicant's position, however, ignores the wording of paragraph 98.03(4)(b) of the IRPR which provides that the Minister of Citizenship and Immigration "may refuse to consider applications associated with commitments made by [the designated entity under suspension]". It is thus made clear that the Minister's authority applies where the designated entity has already issued Commitment Certificates, but where IRCC has not yet completed its processing of the application. In those cases, the application is put on hold while the suspension is in effect.
- [21] Additionally, IRCC's email of January 12, 2026, explicitly explained how the suspension of the Designated Entity would affect IRCC's processing of SUV permanent residence applications. It advised that during the suspension period, IRCC will pause the processing of all applications supported by Commitment Certificates issued by the Designated Entity, except for work permit renewals if the applicant is already in Canada: Email dated January 12, 2026, Zheng Affidavit, Exhibit C at 2.
- [22] Moreover, while the evidence supports that the Applicant's application has "passed" several assessments, there is no evidence that his security screening has also "passed". Rather, the evidence only indicates that CSIS has provided its security screening advice and that its role is complete: Letter dated November 28, 2025, Zheng Affidavit, Exhibit A at 1.
- [23] In its response to the Applicant's NSIRA complaint, CSIS attached an overview of the security screening process in immigration and citizenship matters. As explained, in permanent residence applications, CSIS provides its security advice to the Canada Border Services Agency [CBSA], which in turn sends this advice, alongside the CBSA's recommendation, to IRCC. IRCC then reviews the available information, before rendering a decision on the permanent residence application: Annex to letter dated November 28, 2025, "Immigration Security Screening Process Map", Zheng Affidavit, Exhibit A at 3.
- [24] Significantly, although CSIS provided its security screening advice on the Applicant's application in October 2025, there is no evidence indicating the status of the overall process. Specifically, it is not known whether the CBSA has provided its recommendation and CSIS' advice to IRCC. Furthermore, IRCC remains the ultimate decision-maker. Based on the Minister of Citizenship and Immigration's suspension of the Designated Entity in December 2025, the processing of all applications supported by the entity has been paused.

- [25] While I have sympathy for the Applicant's situation, given that his application has been in process for five years now, I find that there is no public legal duty to act in the circumstances. I accept the Respondent's argument that the fact the suspension was only recently invoked has no bearing. Indeed, in *Niu*, Justice Grammond confirmed that whether a public legal duty to act exists must be assessed at the time the mandamus application is heard:
- [8] [...] The right to seek mandamus does not crystallize at the moment the application is filed. Rather, the Court must assess the entitlement at the moment the case is heard. In other words, if events taking place between the moment the application is filed and the moment the case is heard have the effect of negating the respondent's public duty to act, mandamus will not issue. [Citations omitted]
- [26] For these reasons, the Applicant has failed to satisfy the first requirement for mandamus to issue, namely, that there is a public legal duty to act. The application for judicial review is therefore dismissed.
- [27] The parties did not propose any question for certification, and I agree that none arise. JUDGMENT in IMM-690-25 THIS COURT'S JUDGMENT is that: The style of cause is amended to name the Minister of Citizenship and Immigration as the sole respondent. The application for judicial review is dismissed. There is no question for certification. "Anne M. Turley" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-690-25 STYLE OF CAUSE: LIFU ZHENG v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: BY VIDEOCONFERENCE DATE OF HEARING: February 9, 2026 JUDGMENT AND REASONS: TURLEY J. DATED: February 20, 2026 APPEARANCES: Jing Yang For The Applicant Matisse Emanuele For The Respondent SOLICITORS OF RECORD: Jing Yang Barrister and Solicitor Vancouver, British Columbia For The Applicant Attorney General of Canada Vancouver, British Columbia For The Respondent

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