Federal Court  Cour fédérale

Date: 20250716

Docket: T-129-23

Citation: 2025 FC 1260

Ottawa, Ontario, July 16, 2025

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

MAHER ALASMAR, KHALED MAHER ALASMAR, ABDUL RAZZAQ MAHER ALASMAR, MOUNZER MAHER ALASMAR

Applicants

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] The Applicants, Maher Alasmar [Principal Applicant] and his three sons, applied for Canadian citizenship in March 2019. The Principal Applicant's application was suspended by Immigration, Refugees and Citizenship Canada [IRCC] in August 2019 pursuant to section 13.1 of the *Citizenship Act*, RSC 1985, c C-29, based on an admissibility investigation by the Canada

Border Services Agency [CBSA]. The processing of his three children's applications was also paused as they were included as dependents on his citizenship application. Over six years later, their applications remain suspended and pending. The Applicants seek to set aside the suspension of their citizenship applications, and seek a writ of *mandamus* compelling the Respondent to make decisions on their applications.

[2] I am allowing the judicial review application. I am satisfied that the Applicants have met the first requirement for *mandamus* and shown that IRCC has a public legal duty to act. Though legitimately invoked by IRCC in August 2019 based on the CBSA's inadmissibility investigation, the suspension has remained in effect longer than necessary under the *Citizenship Act* and is therefore unreasonable.

[3] The Respondent asserts that there has been an active, ongoing investigation throughout the suspension period. The record, however, does not support this assertion. After interviewing the Principal Applicant in May 2022, the CBSA concluded that there were "no grounds" for an inadmissibility determination. However, the suspension remained in effect based on the CBSA's open intelligence investigation. Notably, in August 2022, the CBSA advised IRCC that while their Inland Enforcement Section had not found any evidence of inadmissibility, they hoped to "cultivate information or evidence in support of an inadmissibility report": Certified Tribunal Record [CTR] at 22.

[4] Furthermore, the record reveals limited investigative activity since May 2022. While the CBSA sought to interview the Principal Applicant in September 2023, they failed to respond to

his counsel's request for particulars. Instead, the officer let the matter sit for over a year before requesting another interview in November 2024. Following an April 2025 interview, the CBSA once again concluded its investigation in May 2025. Nevertheless, the Principal Applicant's citizenship application remains suspended. In the circumstances, I find that the continued suspension is unreasonable. It has been in effect longer than necessary and, as such, the Respondent has a public legal duty to act. Consequently, the suspension is set aside.

[5] The only other *mandamus* requirements in contention are the reasonableness of the delay in processing the citizenship applications, and where the balance of convenience lies.

[6] In this case, given that the suspension was invoked soon after the Applicants applied for citizenship, there is significant overlap in the considerations relevant to the reasonableness of the delay in processing, and the reasonableness of the suspension. As the Applicants acknowledge, processing delays are understandable where there are national security concerns. They concede that at least part of the delay between May 2019 and May 2022 may be justifiable. Having reviewed the record, I find that three-year delay to be reasonable. However, the Respondent has failed to justify the delay in processing the citizenship applications since May 2022. I am therefore satisfied that the 76-month processing delay is unreasonable.

[7] The balance of convenience favours the Applicants. I am not persuaded that ordering *mandamus* in this case will result in improperly aborting or abbreviating an investigation. The Respondent has had ample time to undertake any necessary investigations and clearances. As the record demonstrates, they have failed to justify their delay. Having satisfied the criteria for

mandamus, the Respondent must render decisions on the Applicants' applications for citizenship within 90 days of this Judgment.

II. Background

A. *Citizenship applications*

[8] The Applicants, citizens of Syria, fled the country at the outset of the civil war in September 2013 and lived in Lebanon for two years. They were sponsored to come to Canada as refugees by a church in Kelowna, British Columbia, and became permanent residents in December 2015.

[9] The Principal Applicant applied for Canadian citizenship in December 2018 and included his three minor children as dependents. However, his application was returned as incomplete. He resubmitted his application in March 2019.

[10] In January 2019, the CBSA entered an Info Alert in the Global Case Management System [GCMS] indicating that the Principal Applicant was under investigation for suspected inadmissibility under section 34 of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*]. In June 2019, the Principal Applicant passed his criminality clearance.

B. *IRCC suspends processing of citizenship applications*

[11] In August 2019, the CBSA requested that IRCC suspend processing under section 13.1 of the *Citizenship Act* until their investigation was completed. On August 22, 2019, IRCC confirmed that the Principal Applicant's application was suspended.

[12] The Principal Applicant began inquiring about the status of his application in March 2020. He was initially told that his application was in process. In November 2021, he was told that one or more clearances remained pending.

[13] In July and October 2020, the Applicants' Member of Parliament [MP] inquired into the status of their applications. IRCC responded that the file was "non-routine" and that they were unable to provide a timeframe for review. The MP's office followed-up in July 2021, October 2021, and November 2021.

[14] In December 2021, the CBSA advised IRCC that they were concerned the Principal Applicant's brother was connected to ISIS. The CBSA planned to interview the Principal Applicant as part of their continuing investigation. As a result, IRCC determined that the suspension under section 13.1 of the *Citizenship Act* should continue.

[15] As of March 2022, the Principal Applicant's citizenship application was still suspended based on the CBSA's investigation.

C. *First judicial review application*

[16] The Principal Applicant sought judicial review in February 2022, requesting a writ of *mandamus* compelling IRCC to process his application for citizenship. Through this process, he learned that the CBSA was investigating him for possible inadmissibility, and that his application had been suspended as a result.

[17] In May 2022, the Principal Applicant attended an interview with the CBSA. The CBSA inland enforcement officer subsequently advised the Principal Applicant's former solicitor that he had concluded his investigation and notified the IRCC on May 20, 2022, that there were "no grounds" for inadmissibility: CTR at 6, 17. The Principal Applicant provided this information to the Court Registry on May 31, 2022. On June 1, 2022, the Court dismissed the Principal Applicant's leave application.

D. *Continued suspension of the citizenship applications*

[18] In an August 2022 email exchange, IRCC noted that the CBSA Info Alert concerning the Principal Applicant had expired. IRCC stated that the original hold on the citizenship application was based on the CBSA's concerns, and that "it is likely that [IRCC] will close [its] investigation if CBSA no longer has any concerns": CTR at 17. IRCC wanted to ensure that there were "no active CBSA investigations into [the Principal Applicant] before proceeding with the next steps in [IRCC's] review": CTR at 20.

[19] In response to IRCC's inquiry, the CBSA advised that their Inland Enforcement Section had "concluded their investigation as evidence to pursue a report of inadmissibility was not located". However, they further advised that they had "broader national security concerns" based on "open-source records". The CBSA thus explained that they were maintaining an open intelligence investigation and hoped "to cultivate information or evidence in support of an inadmissibility report": CTR at 22. The open-source records concerned possible ties between ISIS and the Principal Applicant's brother: CTR at 35–38.

[20] In September 2022, the CBSA requested that IRCC maintain a hold on the Principal Applicant's citizenship application in order to continue investigating: CTR at 40. In response to a December 2022 follow-up from IRCC, the CBSA said that its investigation was ongoing and asked IRCC to check again in six months: CTR at 47.

E. *Continued inquiries about the status of the applications*

[21] The Principal Applicant continued to make inquiries with IRCC about the status of his application. In August 2022, November 2022, and January 2023, IRCC advised him that one or more clearances were still pending.

[22] The Applicants' present counsel wrote to IRCC in November 2022 requesting notice of any further information required to process the citizenship applications, failing which they would seek a writ of *mandamus*. IRCC responded, stating that one or more clearances remain pending.

[23] In response to an inquiry in December 2022 from the MP office, IRCC said that the Principal Applicant had passed security, criminality, and biometrics, but that the knowledge test and prohibition had not yet started: Applicant's Record at 135.

F. *The present judicial review application*

[24] The Principal Applicant filed the within application for leave and for judicial review on January 12, 2023. On May 16, 2023, the Court ordered IRCC to serve and file its CTR within 21 days.

[25] The Respondent subsequently notified the Court of its intent to apply for non-disclosure of information under sections 37 or 38 of the *Canada Evidence Act*, RSC 1985, c C-5 [*CEA*]. In July 2024, the Attorney General of Canada filed an application under subsection 38.04(1) of the *CEA*, objecting to the disclosure of information contained in six documents in the CTR on the basis that disclosure would be injurious to national security. An *amicus curiae* was appointed to assist the Court in performing its statutory obligations under section 38.

[26] By order dated April 2, 2025, the Court confirmed the prohibition on disclosure of the redacted information under subsection 38.06(3) of the *CEA*. In addition, pursuant to subsection 38.06(2), the Court authorized disclosure of the unredacted information to the judge seized with the judicial review application, and any *amicus curiae* appointed to assist the Court during any *in camera* and *ex parte* portions of this application. Further, the Court appointed the same *amicus curiae* on this application as the section 38 *CEA* application.

[27] Information in the CTR was also redacted based on common law privileges and relevance. The Applicants decided not to challenge those redactions. This matter was heard based on the public redacted record on June 16, 2025. A classified hearing date was scheduled for July 31, 2025. Ultimately, that hearing was unnecessary because the Applicants established that *mandamus* should issue based on the public record and the Respondent was not relying on the information redacted under section 38 of the *CEA* in defending this judicial review application.

[28] While this matter was under reserve, the Respondent filed an affidavit on July 4, 2025, without seeking leave of the Court. The Applicants objected to the filing of this supplementary

evidence. This affidavit simply appends GCMS notes as an exhibit. According to these notes, the Principal Applicant was scheduled for a security interview with the Canadian Security Intelligence Service on July 8, 2025.

III. Analysis

A. *Preliminary issues*

[29] The Principal Applicant filed a motion prior to the hearing of this judicial review, seeking an order: (i) amending the style of cause to include his three children as applicants; and (ii) adding the relief of *certiorari* setting aside the suspension of their citizenship applications to their Notice of Application. The Respondent did not oppose the motion on either ground.

[30] At the outset of the judicial review hearing, I granted the motion. The three children are proper applicants given that they were included as dependents in the Principal Applicant's citizenship application. IRCC refused the Principal Applicant's request to separate his children's applications from his own in March 2022. As a result, their applications are tied to that of the Principal Applicant and any decision necessarily impacts them.

[31] Further, based on this Court's decision in *Sharafaldin v Canada (Citizenship and Immigration)*, 2022 FC 768 [*Sharafaldin*], I granted the requested amendment to the relief sought in the Notice of Application. In *Sharafaldin*, Justice Norris allowed the applicant to add a subsidiary application for *certiorari* to set aside the suspension of his citizenship application under

section 13.1 of the *Citizenship Act*. In that case, the applicant did not know about the section 13.1 suspension when he had commenced his application for judicial review: *Sharafaldin* at para 45.

[32] Here, it was not clear to the Principal Applicant that his citizenship application remained suspended until he received the CTR. Prior to filing this application for judicial review in January 2023, the CBSA had told him that their investigation had concluded. In addition, similar to *Sharafaldin*, the Respondent relies on "the suspension as a complete answer to the *mandamus* application": *Sharafaldin* at para 45. The amendment is thus in the interests of justice.

B. *The legal test for mandamus*

[33] The legal test for an order of *mandamus* is well established. The following requirements must be met:

> (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, in particular, (i) the applicant has satisfied all the requirements for a decision to be made; (ii) they have made a prior request that a decision be made; and (iii) the decision-maker has either expressly refused to make a decision or has taken unreasonably long to do so;
>
> (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) The Court finds no equitable bar to the relief sought; and

> (8) On a balance of convenience an order of *mandamus* should be issued:
>
> *Apotex Inc v Canada (Attorney General)*, 1993 CanLII 3004 (FCA), [1994] 1 FC 742 (CA) at 766–769, aff'd 1994 CanLII 47 (SCC), [1994] 3 SCR 1100 [*Apotex*].

[34] With respect to the third requirement, the delay may be found unreasonable where: (i) the delay in question has been longer than the nature of the process required, *prima facie*; (ii) the applicant is not responsible for the delay; and (iii) the authority responsible for the delay has not provided a satisfactory justification: *Conille v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 9097 (FC), [1999] 2 FC 33 at 43 [*Conille*].

[35] The Respondent argues that there is no public legal duty to act during the suspension and, therefore, the Applicants fail to meet the first requirement for *mandamus*. In particular, they assert that the suspension has not been in place longer than necessary. Further, they argue that the delay in processing the applications has not been unreasonable and that the balance of convenience does not favour granting *mandamus*.

C. *Section 13.1 suspension*

[36] In accordance with section 13.1(a) of the *Citizenship Act*, the Minister of Immigration, Refugees and Citizenship may suspend the processing of a citizenship application "for as long as is necessary to receive":

(a) any information or evidence or the results of any investigation or inquiry for the purpose of ascertaining whether the applicant meets the requirements under this Act relating to the application, whether the applicant should be the subject of an admissibility hearing or a removal order under the *Immigration and Refugee Protection Act* or whether section 20 or 22 applies with respect to the applicant;	**a)** dans l'attente de renseignements ou d'éléments de preuve ou des résultats d'une enquête, afin d'établir si le demandeur remplit, à l'égard de la demande, les conditions prévues sous le régime de la présente loi, si celui-ci devrait faire l'objet d'une enquête dans le cadre de la *Loi sur l'immigration et la protection des réfugiés* ou d'une mesure de renvoi au titre de cette loi, ou si les articles 20 ou 22 s'appliquent à l'égard de celui-ci;

[37] If a 13.1 suspension is valid, the test for *mandamus* is not met because it precludes the public legal duty to process a citizenship application: *Canada (Citizenship and Immigration) v Nilam*, 2017 FCA 44 at paras 26–27; *Sharafaldin* at para 43; *Onghaei v Canada (Citizenship and Immigration)*, 2020 FC 1029 at para 28 [*Onghaei*]; *Zhang v Canada (Citizenship and Immigration)*, 2019 FC 938 at para 35 [*Zhang*]; *Nada v Canada (Citizenship and Immigration)*, 2019 FC 590 at para 21 [*Nada*]; *Niu v Canada (Citizenship and Immigration)*, 2018 FC 520 at para 3 [*Niu*]. Conversely, if the suspension is found unreasonable, the remaining *mandamus* requirements must still be met: *Sharafaldin* at para 54.

[38] Reviewing the reasonableness of a suspension entails assessing whether it has been in effect for "longer than necessary", or whether it remains within "reasonable bounds": *Jahantigh v Canada (Citizenship and Immigration)*, 2023 FC 1253 at para 19 [*Jahantigh*]; *Sharafaldin* at para 44; *Gentile v Canada (Citizenship and Immigration)*, 2020 FC 452 at paras 20, 30 [*Gentile*]; *Zhang* at para 38; *Niu* at para 14. This is a highly fact-specific exercise: *Sharafaldin* at para 46; *Gentile* at paras 21, 24.

[39] I agree with Justice McHaffie that it is not advisable to adopt a rigid test of closed factors because the relevant factors "may be varied and will depend on the particular context": *Gentile* at para 24. That said, in my view, the second and third *Conille* requirements (as set out in paragraph 34 above) are relevant to assessing whether a suspension under section 13.1 has lasted longer than necessary or exceeded reasonable bounds. In that vein, the following considerations are germane: (i) whether the applicant's conduct contributed to the continued suspension; and (ii) whether a satisfactory justification has been provided for the continued suspension.

D. *The evidentiary record is lacking*

[40] In a case like this one, where the suspension has been in effect for almost the entire time the citizenship applications have been in process, there will be considerable overlap in the evidence and considerations relevant to the reasonableness of both the suspension and the processing delay. Here, both hinge on the evidence concerning the CBSA's inadmissibility investigation. Indeed, the Respondent asserts that both the suspension and the processing delay are justified based on the CBSA's "active, ongoing investigation" and diligent pursuit of the matter: Respondent's Further Memorandum of Argument at paras 27, 39.

[41] It was incumbent on the Respondent to ensure that the Court had an adequate evidentiary record. The Court's review of a section 13.1 suspension depends on IRCC filing sufficient information to "permit the Court to undertake such an assessment": *Gentile* at para 28. Furthermore, even if another federal government department or agency is investigating, IRCC must ensure adequate evidence is adduced about that investigation: *Jahantigh* at paras 5, 21–23;

Gentile at paras 30, 32. Failure to file such evidence "risk[s] the Court finding the suspension unreasonable for want of reasonable justification": *Gentile* at para 32.

[42] Similarly, in a *mandamus* application, the onus is on the respondent to provide a satisfactory justification for the delay in processing the underlying application: *Jahantigh* at para 25; *Sharafaldin* at para 60; *Conille* at 43. This Court has repeatedly held that blanket statements about pending security investigations are insufficient: *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* at paras 19–25; *Bidgoly v Canada (Citizenship and Immigration)*, 2022 FC 283 at para 38; *Almuhtadi v Canada (Citizenship and Immigration)*, 2021 FC 712 at para 40 [*Almuhtadi*].

[43] Furthermore, the record in a *mandamus* application is evolving. Unlike a judicial review of an administrative decision, the CTR is not fixed in time. As Justice Norris explains, on a *mandamus* application, "given that no decision has been made, the decision-making process can still be ongoing even after the CTR has been produced": *Abu v Canada (Citizenship and Immigration)*, 2021 FC 1031 at para 36.

[44] The evidentiary record is lacking in this case. Despite filing the public redacted CTR in November 2024, 18 months after the Court's production order, the last entry in the CTR is dated April 2023. The Respondent should have ensured that the CTR was up to date.

[45] The Respondent had another opportunity to provide updated information when it filed further affidavit evidence in May 2025. However, their further affidavit only addresses the CBSA's interview requests of September 2023 and November 2024. It does not include any information about whether any investigative or other steps were taken after April 2023 to move these applications along.

[46] As explained below, I disagree with the Respondent that, notwithstanding this evidentiary gap, there is sufficient evidence on the public record to establish that the suspension has been in place only as long as necessary and that IRCC has offered a satisfactory justification for the processing delay. The Respondent's post-hearing affidavit, noted above, does not change the Court's analysis on either front.

E. *There is a public law duty to act — the continued suspension is unreasonable*

(1) The suspension has lasted longer than necessary

[47] The suspension has been in effect since August 2019, almost six years now. It was invoked so that the CBSA could investigate the Principal Applicant's admissibility. The evidence shows that the suspension has remained in effect at the CBSA's behest.

[48] According to IRCC's chronology, the suspension was maintained in December 2021 after the CBSA confirmed their ongoing investigation and their plans to conduct interviews, including of the Principal Applicant: CTR at 293–294. At that time, the CBSA officer advised that they had

received a referral from the RCMP based on a possible family connection to ISIS through the Principal Applicant's brother: CTR at 11.

[49] In March 2022, the CBSA advised IRCC that they had "no evidence at this time to justify an investigation": CTR at 295. However, the suspension was maintained: CTR at 261. The IRCC officer noted that the file was "in a holding pattern with processing as the client is suspended" and that they were "obtaining status updates from CBSA every 6 months to see if we can proceed with processing". The officer further stated that if the CBSA gave the "all clear", IRCC could "push the client through to ceremony within 4 to 9 months": CTR at 277.

[50] The CBSA interviewed the Principal Applicant in May 2022, following which the CBSA officer concluded that there were no grounds for an inadmissibility finding: CTR at 6, 17. Despite so advising IRCC, the suspension was not lifted. Rather, a GCMS entry of June 15, 2022, stated that the application was suspended pending an investigation "by IRCC and/or an IRCC partner": CTR at 261–262. However, there is no evidence of any such investigation. That entry was repeated on August 11, 2022: CTR at 264. Again, there is no evidence of any pending investigation.

[51] In August 2022, IRCC inquired about the status of the CBSA's investigation because a National Case Management System entry indicated that the investigation was concluded and that no further action was being taken. The CBSA advised that their Inland Enforcement Section concluded its investigation "as evidence to pursue a report of inadmissibility was not located": CTR at 22–23. Further, the RCMP's investigation was concluded based on the absence of a clear offence and lack of evidence: CTR at 14.

[52] However, the CBSA officer advised that they would maintain an open intelligence investigation, hoping "to cultivate information or evidence in support of an inadmissibility report". The CBSA indicated that it would soon action investigative measures. IRCC, in turn, continued suspending the citizenship application pending the results of the CBSA's investigation: CTR at 22.

[53] In September 2022, the CBSA asked IRCC to continue suspending the processing of the Principal Applicant's citizenship application. Despite no update as to what steps, if any, the CBSA had taken to pursue an investigation, IRCC agreed to maintain the suspension: CTR at 29.

[54] In December 2022, IRCC asked the CBSA for an update. The CBSA advised that their investigation was ongoing, without providing any specifics. They suggested that IRCC follow up again in six months: CTR at 47. On this basis, IRCC maintained the suspension: CTR at 67, 71. At the same time, IRCC requested any information from the RCMP "linking [the Principal Applicant] to activities potentially injurious to national security/organized crime": CTR at 64. In January 2023, the RCMP provided a negative response: CTR at 4–5; 66.

[55] According to a February 2023 email, IRCC's Citizenship Security Assessment Team [CSAT] was "still investigating" and the CBSA had an ongoing investigation. IRCC was to follow up with the CBSA in June 2023: CTR at 5, 71. There is no evidence, however, of what the CSAT was investigating. The last update to IRCC's Record of Investigation is dated April 5, 2023.

[56] With respect to the evidence from August 2019 until the CBSA concluded its investigation in May 2022, I am satisfied that the section 13.1 suspension was reasonable. However, based on

the evidentiary record before me, I find that the continued suspension after May 2022 was not within "reasonable bounds". Between May 2022 and April 2023, as detailed above, there was a dearth of investigative activity on this file.

[57] Furthermore, I find that maintaining the suspension based on the CBSA's "hope" that it would be able to "cultivate" evidence for an inadmissibility report is wholly unreasonable. In that respect, the Applicants' concern about this becoming a "fishing expedition" is justified: Applicants' Further Memorandum of Argument at para 43. Also troubling is the CBSA's inquiries into the law firm retained by the Applicants: CTR at 6.

[58] During this time, IRCC simply kept a "watching brief" on the file, following up at regular intervals with the CBSA about the status of their investigation without asking for any substantive updates. Pursuant to section 13.1 of the *Citizenship Act*, the Minister has the power to suspend processing for "as long as is necessary". However, in my view, this requires that IRCC make an independent decision about whether a continued suspension is still "necessary" in the circumstances, and not just rely on the CBSA's bald statement that it was continuing to investigate.

[59] Finally, the continued suspension is unreasonable considering the CBSA's limited activity between April 2023 and May 2025. While the CBSA indicated in August 2022 that it was going to take further investigative steps, the only evidence of any activity is their second interview request of the Principal Applicant in September 2023.

[60] When the CBSA requested this interview, the Applicants' lawyer responded that same month advising that the Principal Applicant wished to cooperate and bring this matter to a close. Counsel requested information about the issues to be canvassed during the interview, as well as any notes or summaries from his May 2022 interview. Counsel followed-up in November 2023 and reiterated this information. However, the CBSA officer never responded. Instead, a year later, in November 2024, the officer advised the Principal Applicant that an inadmissibility report may be prepared under subsection 44(1) of the *IRPA*. He was subsequently invited to a "voluntary" interview to address IRCC's concerns.

[61] In November 2024 and January 2025, the Applicants' counsel again requested notes of the May 2022 interview and particulars about the CBSA's concerns. These requests went unanswered. Later, in January 2025, counsel communicated their desire to wait until the section 38 *CEA* application was adjudicated so that they had "full disclosure" in the underlying application. Ultimately, the Principal Applicant attended an interview on April 29, 2025: Affidavit of Shanie Yim, affirmed May 13, 2025, at 24–34 [Respondent's Further Affidavit]. According to Respondent's counsel, the CBSA concluded its investigation on May 21, 2025. IRCC has been notified of this outcome, but there is no evidence that the suspension has been lifted.

[62] Based on this chronology, I cannot accept the Respondent's argument that the "CBSA has continued to diligently pursue this matter", nor their characterization of an "active, ongoing investigation": Respondent's Further Memorandum of Argument at paras 39, 56, 59. To the contrary, the evidence shows that the investigation has been languishing. In the circumstances, I find that the suspension has continued longer than necessary and is outside reasonable bounds.

(2) The suspension is set aside

[63] The Applicants request that the suspension be set aside. The Respondent argued that this relief is not necessary if the Court also grants an order of *mandamus*. They reason that if the Court compels the Respondent to decide the citizenship applications, the suspensions must necessarily be lifted. Further, they argue that the only case in which the Court set aside a suspension is *Sharafaldin*.

[64] Indeed, *Sharafaldin* is the only decision finding a suspension unreasonable. In the other section 13.1 cases, the Court concluded that the suspensions were reasonable and that there was thus no public legal duty to act, precluding *mandamus*: *Nilam* at para 27; *Onghaei* at para 41; *Zhang* at para 40; *Nada* at paras 2, 26. In *Gentile*, the suspension had been lifted post-hearing and thus the Court declined to assess the reasonableness of the suspension.

[65] In my view, having found that the suspension is unreasonable, setting it aside should follow as relief. This reflects the step-by-step approach required in the circumstances. First, the Court must consider whether the 13.1 suspension is reasonable. If the Court finds that it is not, then IRCC has a public legal duty to act. As relief, a successful applicant is entitled to an order setting aside the suspension. Then the Court must consider whether the other *mandamus* requirements are met. This is how Justice Norris proceeded in *Sharafaldin* and I see no reason to depart from this approach: *Sharafaldin* at paras 43–52. The Respondent has not convinced me otherwise.

F. *The other mandamus requirements are met*

[66] The only other *mandamus* requirements that the Respondent takes issue with is whether the delay has been unreasonable and where the balance of convenience lies.

(1) IRCC's delay in processing is unreasonable

[67] I find that the Applicants have satisfied the three *Conille* requirements. IRCC's delay in processing their citizenship applications is therefore unreasonable.

(a) *The delay is prima facie longer than the nature of the process requires*

[68] This requirement is concerned with whether the delay clearly surpasses what would usually be required to process the type of application in question. IRCC's published processing times "provide a helpful baseline understanding of average processing times in order to assess whether the specific delay in question is longer, *prima facie*, than is typically required": *Mamut* at para 94.

[69] The Applicants assert that IRCC's 76-month delay in their case is longer than the nature of the process requires, *prima facie*. The average processing time for a citizenship application was 23 months when they filed their applications in 2019 and has since decreased to eight months. This satisfies me that the delay in processing the applications is longer than usual.

(b) *The Applicants are not responsible for the delay*

[70] I reject the Respondent's suggestion that the Principal Applicant contributed to the delay by not attending a second CBSA interview until April 2025: Respondent's Further Memorandum of Argument at paras 19–22, 56. To the contrary, the evidence shows that he wanted to cooperate with the CBSA's September 2023 request. The Principal Applicant requested particulars of the CBSA's concerns, and notes of his May 2022 interview, which went unanswered.

[71] I agree with the Applicants that these requests were in the interests of procedural fairness. The Principal Applicant was entitled to notice of the CBSA's concerns: *Shehu v Canada (Public Safety and Emergency Preparedness)*, 2024 FC 1532 at para 10; *Shi v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 345 at paras 27–31; *XY v Canada (Public Safety and Emergency Preparedness)*, 2021 FC 831 at para 92; *Durkin v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 174 at paras 14–18, 31–32; *Hernandez v Canada (Minister of Citizenship and Immigration)*, 2005 FC 429 at para 71.

[72] The CSBA officer's September 2023 interview request was vague, simply stating that "[t]he purpose of the interview will be to address some concerns that have come to the attention of the Minister": Respondent's Further Affidavit at 5. Despite multiple requests from Applicants' counsel for information, the officer failed to respond.

[73] In November 2024, the CBSA officer renewed his request for an interview. This time they warned that a report under subsection 44(1) of the *IRPA* "may be prepared": Respondent's Further

Affidavit at 23. In response, Applicants' counsel reiterated her request for the May 2022 interview notes. In January 2025, counsel also requested "particulars/disclosure of any information to be discussed": Respondent's Further Affidavit at 26.

[74] The Principal Applicant decided to wait to attend the interview until the CTR issues were resolved so that he had "full disclosure": Respondent's Further Affidavit at 25. The CBSA interview took place on April 29, 2025. In the circumstances, I do not fault the Principal Applicant for holding off until after receiving the CTR given the CBSA's lack of transparency. In the circumstances, this was the only way that he could get an idea of the underlying concerns.

(c) *The Respondent has failed to justify the delay*

[75] The Respondent submits that the processing of the Applicants' citizenship applications was reasonably delayed by an active, ongoing investigation. The jurisprudence makes clear that the authority responsible for the delay has the onus to provide a satisfactory justification: *Jahantigh* at para 25; *Sharafaldin* at para 60; *Conille* at 43. The Respondent has failed to do so in this case.

[76] I find that IRCC's processing delays are unreasonable for the same reasons that I found the 13.1 suspension was unreasonable. While the delay between March 2019 and May 2022 may be justified, the period since has not been satisfactorily explained. The follow-up emails from IRCC to the CBSA requesting status updates reveals nothing substantive. Merely checking in for updates "is insufficient to discharge the Minister's responsibility to ensure that the processing of the citizenship application is not delayed unduly": *Sharafaldin* at para 62.

(2) The balance of convenience favours the Applicants

[77] In considering this last requirement for an order of *mandamus*, "courts retain the discretion to refuse to issue an order where the public interest outweighs the interests of those who would otherwise be entitled to the order": *Saravanabavanathan v Canada (Citizenship and Immigration)*, 2024 FC 564 at para 45 [*Saravanabavanathan*], citing *Khalil v Canada (Secretary of State)*, 1999 CanLII 9360 (FCA), [1999] 4 FC 661 (CA).

[78] The Respondent has not "identified any public interest considerations that would cause the balance of convenience to tilt in their favour": *Saravanabavanathan* at para 47. They simply refer to the duty to ensure the integrity of the immigration system and the need to carefully review all applications: Respondent's Further Memorandum of Argument at para 51. This, however, is always the case, and does not, in and of itself, tip the balance in the Respondent's favour.

[79] The Respondent further argues that where there are security concerns, the Court should not issue an order of *mandamus* resulting in aborting or abbreviating the investigation: Respondent's Further Memorandum of Argument at para 52. Here, however, there is nothing to indicate that ordering a decision at this juncture would improperly abbreviate the investigation. Moreover, an order of *mandamus* requires rendering a decision, not a specific outcome.

[80] The Applicants, on the other hand, have been waiting over six years for an answer on their citizenship applications. They assert that the continued processing delay has had a negative impact. As a refugee, the Principal Applicant "longs to have stable and secure status for himself and his

children, after so [*sic*] the instability they experienced living in Lebanon": Applicants' Further Memorandum of Argument at para 57. As discussed, the Principal Applicant diligently followed-up on the status of the applications and has been cooperative throughout, attending CBSA interviews in May 2022 and April 2025.

[81] In the circumstances, I find that the balance of convenience favours the Applicants.

(3) Terms of the *mandamus* order

[82] Where the *mandamus* requirements are met, the typical remedy is to compel the decision-maker to render a decision within a specified timeframe: *Sharafaldin* at para 37. In exceptional circumstances, an applicant may also be entitled to have substantive constraints placed on the decision-making process: *Sharafaldin* at para 39.

[83] Relying on *Sharafaldin*, the Applicants request relief beyond compelling the Respondent to decide their applications within a specific time frame. They also request that the Court order that the Respondent shall not withhold security, criminal, and immigration clearances except based on new information: Applicants' Further Memorandum of Argument at para 65(a).

[84] Justice Norris made clear in *Sharafaldin* that the substantive constraints he placed on the Minister's decision-making were based on the exceptional circumstances of that case: *Sharafaldin* at paras 4, 74. Furthermore, submissions were made about the appropriate place to draw the line for determining whether information is new: *Sharafaldin* at paras 80–81.

[85] Here, the Applicants have not established that their case calls for this exceptional remedy. They made no submissions supporting this requested relief. In addition, they did not make any submissions about where the line should be drawn with respect to defining “new information”. In my view, it is not appropriate to impose this substantive constraint in such a vacuum.

[86] Consequently, I am limiting the relief granted to ordering the Respondent to render decisions on the Applicants’ citizenship applications within 90 days of this Judgment. I am satisfied that this amount of time allows the Respondent to conduct any necessary clearances and make decisions on their applications. Notably, when asked, the Respondent had no submissions about the length of time the Court should provide IRCC to render a decision if *mandamus* was granted.

G. *Costs are warranted*

[87] In immigration matters, section 22 of the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, SOR/93-22 provides that no costs shall be awarded on applications for leave and judicial review except for “special reasons”. The threshold for demonstrating “special reasons” is high: *Mamut* at para 128; *Ghaddar v Canada (Citizenship and Immigration)*, 2023 FC 946 at para 45 [*Ghaddar*]; *Almuhtadi* at para 56; *Taghiyeva v Canada (Citizenship and Immigration)*, 2019 FC 1262 at para 17.

[88] Costs have been awarded to applicants based on excessive delay by decision-makers in *mandamus* cases: *Mamut* at paras 129–130; *Amawla v Canada (Citizenship and Immigration)*, 2024 FC 1132 at paras 28–29; *Ghaddar* at paras 46–49; *Samideh v Canada (Citizenship and*

Immigration), 2023 FC 854 at paras 46–48; *Tameh v Canada (Public Safety and Emergency Preparedness)*, 2017 FC 288 at para 78.

[89] There are "special reasons" for a costs award in this case. In my view, unreasonable and unfair conduct of federal government officials has resulted in the now over six-year delay in processing the Applicants' citizenship applications. I rely on two examples. First, in May 2022, after concluding that there were no grounds for an inadmissibility finding, the CBSA decided to keep their investigation open, hoping to "cultivate" evidence. Continuing to suspend the processing of the applications on this basis warrants a costs sanction.

[90] Second, the CBSA's actions delayed the Principal Applicant's second interview. In September 2023, when an officer requested the Principal Applicant attend another interview, he invoked his right to procedural fairness and asked for particulars. This request was met with silence. The CBSA officer instead let the matter sit for fourteen months until he renewed his request in November 2024. This conduct does not reflect well on the administration of justice and merits a costs award.

[91] The Applicants request a lump sum of $2,000 on the basis that a review of the *mandamus* jurisprudence shows that this is an average costs award. While the Respondent argues that costs are not justified, they do agree that $2,000 is in the range of a reasonable award in *mandamus* cases. I agree that $2,000 is a reasonable amount.

IV. Conclusion

[92] For these reasons, the application for judicial review is granted. The suspension of the Applicants' citizenship applications is set aside. An order of *mandamus* is issued requiring the Respondent to make decisions on the Applicants' citizenship applications within 90 days of this Judgment. Finally, the Applicants are awarded costs in the amount of $2,000.

[93] The parties did not propose a question for certification, and I agree that none arises.

JUDGMENT in T-129-23

THIS COURT'S JUDGMENT is that:

1. The style of cause is amended to add Khaled Maher Alasmar, Abdul Razzaq Maher Alasmar, and Mounzer Maher Alasmar as Applicants.
2. The Applicants are granted leave to amend their Notice of Application to include the request for an order of *certiorari* setting aside the suspension of their citizenship applications under section 13.1 of the *Citizenship Act*.
3. The application for judicial review is granted.
4. The suspension of the Applicants' citizenship applications under section 13.1 of the *Citizenship Act* is set aside.
5. Decisions on the Applicants' citizenship applications shall be made within 90 days of this Judgment.
6. The Respondent shall pay the Applicants $2,000 in costs.
7. There is no certified question.

"Anne M. Turley"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	T-129-23
STYLE OF CAUSE:	MAHER ALASMAR, KHALED MAHER ALASMAR, ABDUL RAZZAQ MAHER ALASMAR, MOUNZER MAHER ALASMAR v THE MINISTER OF CITIZENSHIP AND IMMIGRATION
PLACE OF HEARING:	HELD BY WAY OF VIDEOCONFERENCE
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JUDGMENT AND REASONS:	TURLEY J.
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