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**FEDERAL COURT**

BETWEEN :

**FIRST AND LAST NAME**

Applicant

- and -

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

Respondent

**REPLY TO THE RESPONDENT’S MEMORANDUM OF ARGUMENT**

**First And Last Name**

*Full* Address

City, Province

Zip Code

Tel: (\*\*\*) \*\*\*-\*\*\*\*

Fax: (\*\*\*) \*\*\*-\*\*\*\*

Email: your email address

**I – OVERVIEW**

1. The Applicant agrees with the Respondent’s statements in paragraphs [X-Y] as factual and in paragraphs [Y] and [Z-W] as legal.
2. The Applicant challenges all other claims presented by the Respondent in their memorandum.
3. Respondent contends that the Applicant has not met the test for mandamus and that the delay in processing the Applicant’s application is justified. However, this response fails to acknowledge the unreasonable nature of the delay and the prejudice suffered by the Applicant.
4. The delay in this case amounts to an implied refusal to act, and the Applicant has suffered significant prejudice due to the Respondent’s failure to process the application in a timely manner. The balance of convenience favors issuing a writ of mandamus.
5. The Respondent cited case law from this Honorable Court; However, these cases are distinguishable from the Applicants’ case.
6. First, ***Seyoboka v. Canada (Citizenship and Immigration), 2005 FC 1290*** concerned a nine-year delay, which resulted from the applicant's addition of significant new information to his file, more specifically regarding his involvement in the Rwandan genocide. In contrast, the Applicants have not made any such amendments.
7. Second. The Respondent relies on ***Bhatia v. Canada (MCI), 2005 FC 1244***. However, in Bhatia, the delay stemmed from admissibility concerns and lack of cooperation over 11 years. The Applicants in this case have no criminal or inadmissibility issues and have fully cooperated.
8. Third, in ***Tapie v. Canada (MCI), 2007 FC 1048***, delay was due to identity fraud concerns. No such issue exists in the Applicants’ file.
9. Fourth, the case ***Zhang v. Canada (MCI), 2019 FC 938*** involved a one-year processing delay, far shorter and not comparable to the current four-and-a-half-year delay experienced by the Applicants.
10. Fifth, the case ***Onghaei v. Canada (MCI), 2020 FC 1029***, the delay was tied to new security-related allegations and COVID-related suspensions. The Applicants have no such allegations, and the Canadian Security Intelligence Service (CSIS) confirmed that the security screening was completed on September 5, 2024.
11. Sixth, ***Chong v. Canada (MCI), 2001 FCT 1335*** and ***Chaudhry v. Canada (MCI), 1998 CanLII 8572*** both involved specific background or admissibility concerns. The Applicants have no such complications.
12. Seventh, in ***Mersad v. Canada (MCI), 2014 FC 543***, the issue involved fairness in processing during a pandemic. However, the Applicants’ delay far exceeds any reasonable COVID-related timeframe, especially after CSIS completed its task.

**II – STATEMENT OF FACTS**

1. The Applicant became a permanent resident on [X]. He applied for citizenship on [X]. Since then, the Applicant has fully complied with all IRCC requirements, including multiple fingerprint submissions. Despite multiple requests, his application has not been processed.
2. The Respondent has provided no clear timeline for when security checks will be completed. The Applicant’s file has been subject to repeated delays, with security checks pending for [X] months.
3. The Respondent argues that the delay is necessary for background checks but **fails to justify why** these checks remain incomplete after such a prolonged period.
4. The Applicant has suffered significant prejudice due to this delay, including legal uncertainty, employment restrictions, and mental distress.

**III – POINTS IN ISSUE**

1. The key legal questions are:

a) Has the delay in processing the Applicant’s citizenship been unreasonable?

b) Does the security check exempt the Respondent from the duty to act within a reasonable time?

c) Has the Applicant suffered significant prejudice as a result of the delay?

d) Should the Court issue a writ of mandamus compelling a decision on the Applicant’s citizenship application?

**PART IV – SUBMISSIONS**

**A. The Delay is Unreasonable and Amounts to an Implied Refusal**

1. The test for unreasonable delay (as set out in [Conille v. Canada (Minister of Citizenship and Immigration) (T.D.), 1998 CanLII 9097 (FC), [1999] 2 FC 33](https://canlii.ca/t/49lh)) requires proving:

(i) The delay is longer than necessary given the nature of the process;
(ii) The Applicant is not responsible for the delay; and
(iii) The authority has not provided a reasonable justification for the delay.

1. IRCC’s standard processing time for citizenship is [X] months, yet the Applicant’s case has been pending for over [X] years. Courts have ruled in [*Singh v. Canada (Minister of Citizenship and Immigration), 2005 FC 544 (CanLII)*](https://canlii.ca/t/1k7b3) para [16](https://canlii.ca/t/1k7b3#par16) that delays beyond two years **without justification** may be deemed unreasonable.
2. The Respondent has failed to provide a satisfactory justification for why the security checks remain pending. In *[Abdolkhaleghi v. Canada (Minister of Citizenship and Immigration), 2005 FC 729 (CanLII)](https://canlii.ca/t/1kx54) para* [*26*](https://canlii.ca/t/1kx54#par14), the Court ruled that generic references to security screening do not justify indefinite delays.
3. The excessive delay and lack of communication amount to an **implied refusal** to act, which is sufficient grounds for a writ of mandamus.

*[31] (…) (2) first, the applicant’s application satisfies the Act and the Regulations to the extent possible, and second, the time taken by CSIS is unreasonable and amounts to an implied refusal; (…)*

[*Conille c. Canada [1999] 2 C.F.*](https://publications.gc.ca/collections/collection_2019/cmf-fja/JU1-2-1-1999-2-1.pdf) *page 46. para. 31*

**B. The Minister Has a Public Duty to Act**

1. The Respondent cannot use Security Screening as a blanket justification to avoid processing applications. The Applicant has met all statutory requirements, and the Minister has a duty to issue a decision without further undue delay.

*[**40] As justification for the delay, the Respondents rely upon the blanket statement that security checks are pending for Mr. Taskia and that issuing an order of mandamus would have the effect of aborting an important security investigation. This Court has repeatedly held that such an explanation alone is inadequate (…)*

[*Almuhtadi v. Canada (Citizenship and Immigration), 2021 FC 712 (CanLII)*](https://canlii.ca/t/jgv01) *para* [*40*](https://canlii.ca/t/jgv01#par40)

1. The Respondent’s Memorandum attempts to justify IRCC’s prolonged inaction by citing internal processes and third-party responsibilities such as security screening. However, the jurisprudence is clear: administrative inaction, particularly when unexplained and prolonged, cannot be shielded behind procedural complexity.

*[**21]           In addition, as I held in Conille, above, the necessity to conduct security and background checks is no justification for administrative inaction. In the absence of any statutory limits on the length of an investigation, it can serve as a convenient excuse for indefinite delay, which the Court will not accept. In each case, the Court must ask itself whether the facts are such that the administrative delay is reasonable or not. Much of the delay in the case at bar appears to be due to CIC’s neglect and is thus unreasonable.*

[*Shahid v. Canada (Citizenship and Immigration), 2010 FC 405 (CanLII)*](https://canlii.ca/t/29bp9) *para* [*21*](https://canlii.ca/t/29bp9#par21)

**C. The Applicant Has Suffered Significant Prejudice**

1. To obtain mandamus, the Applicant must show significant prejudice. The Respondent dismisses the Applicant’s claims of prejudice, but:

a) Legal Uncertainty: The Applicant remains in limbo without a decision.

b) Employment and Travel Barriers: Citizenship delays impact career opportunities, particularly for positions requiring Canadian citizenship.

c) Psychological and Emotional Stress: Prolonged uncertainty causes mental distress, which courts have ruled as a legitimate form of prejudice.

1. The Respondent has not disputed these points with evidence, which supports the conclusion that the Applicant has suffered significant prejudice warranting judicial intervention.

**E. The Balance of Convenience Favors Mandamus**

1. The balance of convenience favors issuing mandamus because:
* The delay has exceeded normal processing times.
* The Respondent has failed to provide a reasonable justification for the delay.
* Security checks should not take an in definite amount of time.
* The Applicant Has Suffered Significant Prejudice
1. The Applicant is not asking for preferential treatment—only that the Court ensures IRCC meets its obligations within a reasonable timeframe.

**V – RELIEF REQUESTED**

1. The Applicant respectfully requests that this Court:

a) Issue a writ of mandamus compelling IRCC to make a decision on the Applicant’s citizenship application within 30 days.

b) Award costs due to the Respondent’s unjustified delay.

c) Grant any further relief the Court deems appropriate.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this [X]th day of [date].

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