Canadian Human Rights Tribunal

Tribunal canadien des droits de la personne

Citation: 2025 CHRT 68
Date: July 16, 2025
File No.: HR-DP-3104-25

Between:

Dr. Amir Attaran

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Immigration, Refugees and Citizenship Canada

Respondent

Ruling

Member: Jo-Anne Pickel

Contents

I. OVERVIEW

[1] These are my reasons for denying a request made by Immigration, Refugees and Citizenship Canada (IRCC), the Respondent, to dismiss this complaint as moot.

[2] Dr. Amir Attaran, the Complainant, filed a complaint with the Canadian Human Rights Commission (the "Commission") alleging that he was discriminated against in the provision of services by IRCC (previously Citizenship and Immigration Canada). In particular, he alleged that IRCC adversely differentiated against him because of its delay in processing his application to sponsor his parents to immigrate to Canada. He argued that this delay was significantly longer than the delay faced by individuals seeking to sponsor other types of family members. In his complaint, Dr. Attaran asked the Commission to investigate IRCC's "systematic discrimination in sponsorship applications concerning parents and grandparents". He alleges that this discrimination by IRCC affected his application to sponsor his parents and continues to affect other potential sponsors of parents and grandparents (PGPs).

[3] IRCC has filed a motion requesting that I dismiss the complaint as moot. Dr. Attaran and the Commission oppose the motion.

II. DECISION

[4] The motion is denied. For the reasons detailed below, I do not agree with IRCC that this complaint is moot. I also do not consider it appropriate to grant the orders sought by Dr. Attaran.

III. ISSUES

[5] I must decide the following issues:

i. Is this complaint moot?

ii. If so, should I exercise my discretion to address a moot complaint?

iii. Should I grant any of the orders requested by Dr. Attaran?

IV. CHRONOLOGY AND BACKGROUND

[6] This complaint has a complicated history of legal treatment that it is worth briefly summarizing at the outset.

[7] Dr. Attaran applied to sponsor his parents in July 2009. He filed his complaint with the Commission in July 2010. In February 2012, the Commission declined to refer Dr. Attaran's complaint to the Tribunal and dismissed it. Dr. Attaran sought judicial review of the Commission's decision. In December 2012, Dr. Attaran's parents were granted permanent resident status. In November 2013, the Federal Court denied Dr. Attaran's application for judicial review: *Attaran v. Canada (Attorney General)*, 2013 FC 1132 [*Attaran* 2013]. However, in February 2015, the Federal Court of Appeal allowed Dr. Attaran's appeal and referred the matter back to the Commission for redetermination: *Attaran v. Canada (Attorney General)*, 2015 FCA 37.

[8] In September 2016, the Commission requested that the Tribunal institute an inquiry into the complaint as it was satisfied that an inquiry was warranted. The Tribunal's former Chairperson dismissed the complaint in July 2023. He concluded that Dr. Attaran had failed to make out a *prima facie* case of adverse differential treatment in IRCC's provision of a service within the meaning of section 5 of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (CHRA): *Attaran v. Citizenship and Immigration Canada,* 2023 CHRT 27. In January 2025, the Federal Court granted Dr. Attaran's application for judicial review of the Tribunal's decision. The Court set aside the decision because of a reasonable apprehension of bias on the part of the former Chairperson against Dr. Attaran. According to the Court, the reasonable apprehension of bias arose from the Chairperson's unexpected completion of his reasons with a "Bias Allegation Addendum". The Federal Court ordered that the matter be remitted for reconsideration by a differently constituted panel of the Tribunal. The complaint was assigned to me for redetermination in January 2025.

V. ANALYSIS

A. Procedural background

[9] I held a first case management conference call (CMCC) with the parties in February 2025. Among other things, in that CMCC, I set deadlines for the parties to file their Statements of Particulars (SOPs).

[10] In its SOP, IRCC provided detailed arguments for why I should dismiss the complaint as moot based on the Supreme Court of Canada's decision in *Borowski v. Canada (Attorney General),* [1989] 1 SCR 342 [*Borowski*] and other applicable case law.

[11] IRCC argued that there was no longer any live controversy between the parties with respect to either the "individual component" or the "systemic component" of Dr. Attaran's complaint. It argued that the basis of the individual component ended with the approval of Dr. Attaran's sponsorship application in May 2012, the approval of his parents' permanent residence application in December 2012, and his parents' landing in Canada in January 2013. On this point, IRCC relied upon the Federal Court's 2013 decision in which it denied Dr. Attaran's application for judicial review of the Commission's decision not to refer his complaint to the Tribunal.

[12] As for the systemic component of the complaint, IRCC argued that any systemic discrimination allegations "must be tied to the same time period" as the individual component of the complaint and that the allegations from that time period have now been addressed. It indicated that significant changes to the PGP program were made between 2011 and 2014. According to IRCC, those changes eventually eliminated the old application backlog that caused the wait times from 2009 to 2012. IRCC argued that processing times are a lagging indicator, meaning that processing times for the PGP program did not fully reduce until 2018 or 2019 after the old backlog was cleared. IRCC argued that the systemic component of Dr. Attaran's complaint became moot once the backlog was cleared and a new reformed system with intake control was introduced. In IRCC's view, any backlog that may exist now is based on new facts that were not part of the complaint referred to the Tribunal.

[13] Finally, IRCC argued that the circumstances did not warrant the Tribunal exercising its discretion to hear a moot complaint. It argued that the Tribunal was not tasked with deciding immigration policy in the absence of a dispute affecting the parties. It argued that there was no factual basis underpinning a claim that the current system is discriminatory.

[14] In their replies to IRCC's SOP, Dr. Attaran and the Commission argued that the complaint is not moot. Dr. Attaran referred to the "individual dimension (actually the Attaran family dimension)" and the "systemic dimension". For the individual/Attaran family dimension, he argued that, narrowly, IRCC is liable for discriminating against him and his family in the past. For him, liability and remedy are outstanding on the individual/Attaran family dimension. Regarding the systemic dimension, he argued that, systemically, IRCC is liable for discriminating against other potential sponsors of PGPs and their families. Dr. Attaran asserted that IRCC engages in the same adverse treatments today as when IRCC processed his application and that, additionally, a moratorium on new PGP sponsorship applications is now in place. Dr. Attaran noted that, in its 2013 decision, the Federal Court found that the systemic issue raised in his complaint was not moot. He sought to rely upon printouts from IRCC's website to argue that the processing time for other PGP families today is virtually unchanged from when he filed his complaint 15 years ago.

[15] In its reply, the Commission also took the position that the complaint was not moot. The Commission submitted that the issues of whether Dr. Attaran's rights were violated, any potential remedy flowing from that, and whether IRCC engaged in a systemic discriminatory practice that continues to the present day remain outstanding. It asked that IRCC file evidence in support of its allegation that the backlog that existed between 2013 and 2019 was in fact cleared.

[16] In a CMCC with the parties in May 2025, I started the call by informing them that I had reviewed their submissions on the issue of mootness and, based on those submissions, I was not persuaded that the complaint is moot. I advised the parties that, at a minimum, if Dr. Attaran were to be successful in establishing that the delay in processing his application to sponsor his parents amounted to differential treatment with respect to a service, the Tribunal would have the power to grant remedies for that discriminatory practice. I referred

to the Tribunal's decision in *Beattie v. Aboriginal Affairs and Northern Development Canada*, 2014 CHRT 1 at paras 87–90 [*Beattie*] which stands for that principle.

[17] IRCC's counsel stated that he had not anticipated a ruling on the mootness issue in the context of a CMCC. I explained that the Tribunal will frequently make rulings in the context of CMCCs and that I was under the impression that the parties had provided their complete submissions on the mootness issue in their SOPs. I asked IRCC's counsel whether he had further arguments on the mootness issue that he wished to make. After a discussion with the parties, a timeline was agreed upon for the parties to make further submissions on the mootness issue.

[18] In the CMCC, I went on to discuss certain issues relating to the complaint. However, I deferred the discussion of many of the agenda items because the mootness issue was a threshold matter that first needed to be decided.

[19] This ruling is based on my review of both the parties' initial submissions and their additional submissions on the issue of mootness.

B. Applicable legal principles

[20] The test for mootness was set out by the Supreme Court of Canada in *Borowski.* The doctrine of mootness reflects a general policy or practice that a court or tribunal may decline to decide a case that raises merely a hypothetical or abstract question.

[21] The Supreme Court established a two-step test that must be applied to determine if a case is moot. First, a decision-maker must determine whether a live controversy remains that affects, or may affect, the rights of the parties. In other words, a decision-maker must determine whether the tangible and concrete dispute between the parties has disappeared and, therefore, the issues have become hypothetical or academic. If there exists no live controversy between the parties, the case is moot. In such a case, a decision-maker must decide whether it should exercise its discretion to hear the moot case.

C. The complaint is not moot

[22] For the reasons detailed below, this complaint is not moot.

(i) Personal portion of the complaint

[23] I do not agree with IRCC that there remains no live controversy with respect to the personal portion of Dr. Attaran's complaint—that is, the portion that relates to the sponsorship application filed by Dr. Attaran.

[24] As noted by IRCC, it approved Dr. Attaran's sponsorship application in 2012. His parents were also approved to become permanent residents in 2012 and landed in Canada in 2013. However, Dr. Attaran's complaint does not relate to the approval/non-approval of his sponsorship application. Instead, it relates primarily to IRCC's delay in the processing of his application. More specifically, it relates to Dr. Attaran's allegation that the time it took IRCC to process his application to sponsor his parents significantly exceeded the processing time for other members of the family class. I do not agree that this portion of Dr. Attaran's complaint has been rendered moot because Dr. Attaran's sponsorship application was approved many years ago.

[25] In my view, when applying the doctrine of mootness in the human rights context, it is necessary to take into consideration that human rights complaints are often made about past conduct or past controversies. In the human rights context, there is no requirement that a controversy between the parties be ongoing. Parties may file, and do frequently file, complaints about past conduct. These complaints will be addressed so long as they do not fall outside the time limits set out in the applicable human rights statute. The Tribunal will remedy discrimination based on what happened in the past.

[26] Litigation about the legal consequences of, and potential liability for, events that happened in the past does not mean that a matter is moot. See, for example, *Beattie* at paras 87–88; *Beattie and Bangloy v. Indigenous and Northern Affairs Canada*, 2019 CHRT 45 at paras 42–43 [*Beattie and Bangloy*]. For further examples from the human rights context, see *D.L.T. v. Ontario (Children and Youth Services),* 2013 HRTO 1332 at para 10

[*D.L.T.*]; *Cole v. Ontario (Health and Long-Term Care)*, 2015 HRTO 1604 at paras 20–36 [*Cole*]; *Sprague v. Rogers Blue Jays Baseball Partnership*, 2017 HRTO 1339 at paras 25–26 [*Sprague*].

[27] Moreover, as the Tribunal found in both *Beattie* and *Beattie and Bangloy,* a matter does not become moot simply because the person allegedly carrying on the impugned conduct decides to stop the conduct. The reason for this is that liability may still be a live issue for the period of time before the respondent ceased any allegedly discriminatory conduct. See *Beattie* at paras 88–89 and *Beattie and Bangloy* at para 52. See also, for example, *D.L.T.* at para 13, *Cole* at para 35 and *Sprague* at paras 31–40.

[28] As noted above, the personal portion of Dr. Attaran's complaint relates primarily to IRCC's allegedly discriminatory delay in the processing of his sponsorship application. If Dr. Attaran were to establish that any processing delay with respect to his application amounted to adverse differentiation in the provision of services on a prohibited ground, he will have established a violation of section 5 of the CHRA. I would then have to assess the appropriate remedy for any such violation under section 53(2) of the CHRA.

[29] I do not agree with IRCC's arguments aimed at distinguishing the *Beattie* decision. First, the fact that the factual matrix underlying the *Beattie* case differs from the facts in this case does not render the principles set out in the decision inapplicable. I also do not agree with IRCC that the reasoning in *Beattie* is inconsistent with the Supreme Court's decision in *Borowski*. While it is true that the member in *Beattie* could have more clearly demonstrated that he was applying the *Borowski* test, his reasoning was cited with approval by the member in *Beattie and Bangloy* who specifically applied the two step *Borowski* test. She found that the complaint before her was not moot because the issue of liability and the appropriate remedy under the CHRA remained live issues. Her decision was upheld by the Federal Court of Appeal: *Bangloy v. Canada (Attorney General),* 2021 FCA 245 at paras 23 and 71 [*Bangloy*]. The Federal Court of Appeal specifically concluded that the Tribunal's application of the legal test for mootness was reasonable*: Bangloy* at para 71.

[30] IRCC argued that the Tribunal's reasoning in *Beattie* is unreasonable as it would mean that "no complaint could ever be moot since the Tribunal could always assess whether

there was discrimination at a previous point in time, even if there was no live controversy or suitable remedy at the time of the hearing". I would not go so far as to say that no complaint could ever be moot. However, the CHRA (as all other human rights statutes) provides the Tribunal with extensive remedial powers to remedy past discrimination and prevent the same or a similar practice from occurring in future: see subsection 53(2) of the CHRA. The reasoning in *Beattie*, this decision, and the other case law cited above are all consistent with these broad remedial powers.

[31] It is the specific context of this matter, arising as it does under the CHRA, that distinguishes it from some other types of matters such as constitutional challenges to policies that are no longer in effect, as was the case in *John Doe 1 v. Canada (Attorney General)*, 2025 FC 1083, cited by IRCC.

[32] I am aware that my finding that the personal portion of Dr. Attaran's complaint is not moot differs from Justice Strickland's finding in her 2013 judicial review decision. In that decision, Justice Strickland found that there was no longer a live controversy between Dr. Attaran and IRCC with respect to the personal portion of his complaint because his sponsorship application had been processed: *Attaran* 2013 at para 46. Justice Strickland's decision was ultimately set aside by the Federal Court of Appeal on other grounds.

[33] I do not agree with Dr. Attaran that Justice Strickland's decision is devoid of any precedential value on issues, such as the mootness issue, that were not challenged on appeal. However, it may well be that, as argued by the Commission, Justice Strickland's decision cannot serve as a definitive basis for a mootness analysis.

[34] In any event, I have carefully considered Justice Strickland's conclusion that the personal portion of Dr. Attaran's complaint was moot. However, with the greatest of respect to her, I have reached the opposite conclusion. The Supreme Court in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 [*Vavilov*] held that judicial precedents on an issue act as a constraint on what an administrative tribunal may reasonably decide. The Court found that, if an administrative decision maker reached a conclusion that differed from judicial precedent, that decision-maker would have to be able to explain, using its institutional expertise, why a different interpretation or conclusion was preferable. It could do

so by, for example, explaining why the court's interpretation does not work in the administrative context: *Vavilov* at paras 93 and 112.

[35] Justice Strickland addressed the mootness of the personal portion of Dr. Attaran's complaint in one paragraph. Based on this short paragraph, it is not clear whether Justice Strickland had the benefit of detailed submissions on the issue supported by relevant human rights case law on mootness. It is also not clear that she had the benefit of submissions on the Tribunal's remedial powers under the CHRA. Although I have had careful regard to Justice Strickland's decision, I have reached a different conclusion for the reasons set out above. Specifically, as noted above, the issues of liability and the appropriate remedy related to any delay in sponsoring Dr. Attaran's sponsorship application remain live issues. My conclusion is based on the Tribunal's own institutional expertise regarding the human rights regime, the human rights case law cited above, and the Tribunal's broad remedial powers under the CHRA.

[36] Finally, I disagree with IRCC's argument that I should follow *Peckford v. Canada (Attorney General)*, 2023 FCA 219 [*Peckford*] and *Dinning v. Veterans Affairs Canada*, 2011 CHRT 20 [*Dinning*], which it has cited, rather than the case law I have cited above. In my view, the circumstances in both those cases are distinguishable from this case.

[37] The *Peckford* case involved a challenge to the constitutionality of the air and rail sector vaccine mandates that required full vaccination against COVID-19 to board a plane or train to travel within or from Canada. Before the hearing of the claim, the impugned vaccine mandates were repealed. The remedies sought by the applicants in the case were declarations that the impugned provisions were unconstitutional and violated different laws and treaties, as well as a prohibition against future similar provisions: *Ben Naoum v. Canada (Attorney General)*, 2022 FC 1463 at para 18 [*Ben Naoum*]. In terms of the prohibition remedy sought by the applicants, the Federal Court found that it could not issue such a remedy against future speculative and undefined legal prohibitions. It also found that a request for declaratory relief cannot sustain a moot case. It was on this basis that the Federal Court found no live controversy between the parties: *Ben Naoum* at paras 29 and 32. The Federal Court of Appeal upheld the Federal Court's decision and dismissed the appellants' argument that a request for declaratory relief was sufficient to avoid a finding of mootness.

[38] Unlike in *Peckford*, in this case, Dr. Attaran has requested a variety of remedies pursuant to subsection 53(2) of the CHRA. Under that provision, the Tribunal has broad remedial powers to award both financial and public interest remedies to redress discriminatory practices and to prevent the same, or a similar, practice from occurring in the future. This is not a case like *Peckford* in which a complainant is seeking to avoid mootness on the basis that they have sought declaratory relief.

[39] I also find the *Dinning* case cited by IRCC to be distinguishable. The *Dinning* case was a complaint to the Tribunal by the parent of a deceased Canadian Forces (CF) member who was ineligible to receive a death benefit under the applicable legislation. The legislation provided for death benefits to be payable only to a spouse, common-law partner or dependent child of a deceased CF member. The complainant was the father of a deceased CF member. In his complaint, he alleged that he was discriminated against as the parent of a deceased CF member who had been single as compared to the family of deceased CF members who had been married (some of whom could collect the death benefit).

[40] At some point in the proceeding, it came to light that the complainant's son in fact had not been single but that he had instead had a common-law partner who received the death benefit at issue. The member dismissed the complaint as moot because it was based on the complainant's alleged status as a family member of a deceased CF member who had been single. Once it came to light that the complainant's son had not been single, the whole basis of the complaint disappeared, thus making it moot. The *Dinning* case is clearly distinguishable because, in that case, the complainant's claim rested entirely on a family status he did not possess.

[41] For the reasons set out above, I find that the personal portion of Dr. Attaran's complaint is not moot.

(ii) Systemic portion of the complaint

[42] As noted earlier, Dr. Attaran asked the Commission to investigate how IRCC's allegedly discriminatory processing of PGP sponsorship applications adversely impacted

other potential sponsors. I refer to this portion of his complaint as the “systemic portion”. In my view, this systemic portion of Dr. Attaran’s complaint is also not moot.

[43] In her 2013 decision, Justice Strickland found that Dr. Attaran’s allegations of systemic discrimination in sponsorship applications concerning PGPs were not moot. She did so on the basis that IRCC had not pointed to any evidence that would indicate that the difference in processing times between various subcategories of relatives in the family class had significantly changed.

[44] In this proceeding, IRCC annexed to its additional mootness submissions a memorandum to the Minister and a copy of its 2020 annual report to Parliament. Despite not being made exhibits to a sworn affidavit, the documents are aimed at demonstrating that the changes that were made to the PGP program between 2011 and 2014 eventually eliminated the application backlog that caused the wait times during the 2009–2012 period, which IRCC says is the time period relevant to this complaint. The documents are also aimed at supporting IRCC’s argument that processing times continued to decrease during the years following its approval of Dr. Attaran’s application. IRCC also asserted that current application processing times are affected by intervening causes such as the backlog caused by COVID-19.

[45] Meanwhile, Dr. Attaran and the Commission argue that the relevant time period for the complaint extends to the present. They argue that processing times for applications to sponsor PGPs have hardly changed. They say that it remains the case that applications relating to other members of the family class, such as spouses and children, are processed significantly faster than those relating to PGPs. Dr. Attaran and the Commission each filed affidavits attaching documents such as printouts from IRCC’s website and its latest annual report to Parliament to support their argument that differential processing times persist between applications to sponsor PGPs as compared to other members of the family class.

[46] In my view, the different documents/proposed evidence filed by the parties make it clear that there remains a live controversy between them. IRCC states that any differences in processing times between PGPs and other members of the family class that existed during the 2009–2012 period were resolved some time ago. This is disputed by Dr. Attaran

and the Commission. Both sides have filed documents/proposed evidence to support their position.

[47] I note here that there is a dispute between the parties as to the relevant time frame for the complaint. In cases where discrimination is ongoing at the time that a complaint is filed, the Tribunal must determine the relevant time period for its inquiry into the complaint. Dr. Attaran and the Commission have argued that the appropriate time frame for the systemic portion of the complaint extends to the present day. They seek remedies for potential sponsors of PGPs, not only during the time period relevant to Dr. Attaran's complaint, but also up to the present. Meanwhile, IRCC has argued that the relevant time frame extends only to the date on which it finished processing Dr. Attaran's application and thus any remedy would be limited to that time frame. This will be one of the preliminary issues that I must decide in this case after I have received submissions from the parties.

[48] I find that the systemic portion of the complaint is not moot irrespective of the time period covered by the complaint. There remains a live controversy between the parties even if I were to accept that the relevant time period for the complaint were the period from 2009 to 2012, as argued by the Respondent. The documents filed by the Respondent do not "speak for themselves" as argued by IRCC. I will have to hear and consider more fulsome evidence from the parties to determine whether any difference in processing times that existed during the 2009–2012 period was resolved. Moreover, the issues of liability and remedy for other victims of any discrimination in processing times during the 2009–2012 period remain live issues.

[49] Likewise, there would exist a live controversy between the parties if I were to accept the position put forward by Dr. Attaran and the Commission that the relevant time period for the systemic portion of the complaint extends to the present day. In this scenario, I would need to hear evidence as to whether any allegedly discriminatory differences in processing times continue to persist between applications to sponsor PGPs and applications relating to other members of the family class.

[50] For the reasons set out above, a live controversy remains with respect to both the personal and systemic portions of the complaint that affects, or may affect, the rights of the

parties. There remains a tangible and concrete dispute between the parties with respect to both portions of the complaint. Therefore, the issues raised in the complaint have not become hypothetical or academic. For all the reasons set out above, neither portion of the complaint is moot.

D. No need to address the second part of the two-step mootness test

[51] I share the concern for judicial economy raised by IRCC in its submissions. However, that concern arises under the second step of the mootness analysis. Since Dr. Attaran's complaint is not moot, I do not need to proceed to the second step of the test to address whether I should exercise my discretion to address a moot complaint.

[52] Since the complaint is not moot, it must proceed through the Tribunal's process. That said, IRCC's concern for judicial economy is well taken. I have already proposed ways to manage this proceeding efficiently, such as reusing as much evidence as possible from the initial hearing. I will continue to manage this case with a focus on both judicial economy and proportionality.

E. Orders sought by Dr. Attaran

[53] I have reviewed and considered the orders sought by Dr. Attaran. I do not consider it appropriate to grant them for the following reasons.

[54] Abuse of process order: Dr. Attaran sought an order finding that IRCC's way of bringing its mootness motion amounted to an abuse of process. He accepted that IRCC was entitled to bring the motion. However, he argued that the motion overreached beyond zealous advocacy into abuse of process. I do not agree with the two reasons why Dr. Attaran says that IRCC's advocacy amounted to an abuse of process.

[55] First, I do not agree that IRCC's arguments with respect to the systemic portion of the complaint that it made before Justice Strickland were exactly the ones it made before me. As noted above, the main reason Justice Strickland gave for finding that Dr. Attaran's systemic allegations were not moot was that IRCC had not pointed to any evidence which

would indicate that the processing times significantly changed. In its submissions before me, IRCC sought to refer to such evidence. It also addressed in its submissions before me the alleged clearing of the backlog post-2013. Therefore, the arguments were not exactly the same. I do agree with Dr. Attaran that IRCC did not cross-appeal the mootness issue to the Federal Court of Appeal. However, I do not agree that its failure to do so makes it an abuse of process to raise the issue of mootness once again before me.

[56] Second, I do not agree with Dr. Attaran that IRCC urged me to take Justice Strickland's decision as binding and that by doing so it engaged in a collateral attack on the Federal Court of Appeal's order setting aside her decision. In its submissions, IRCC argued that I should respect and follow Justice Strickland's decision. It also argued that there was no reason to depart from it. I do not see this as an argument that I was bound by it, much less do I see this argument as a collateral attack on the Federal Court of Appeal's decision.

[57] As I noted above, I do not agree with Dr. Attaran that the mootness portion of Justice Strickland's decision is devoid of any precedential value whatsoever just because her decision was set aside by the Federal Court of Appeal on other grounds. However, I did reach the opposite conclusion from Justice Strickland for the reasons detailed above.

[58] For these reasons, I decline to find that IRCC engaged in an abuse of process due to the arguments it put forward on the mootness issue.

[59] Order that IRCC not relitigate mootness: I do not consider it necessary to make an order to prohibit IRCC from relitigating the mootness issue. As the parties are aware, mootness is a preliminary matter going to whether a decision-maker should hear a case. If IRCC were to raise the mootness issue again before the hearing, I would simply rule that the issue has already been decided. Once a hearing has started, the issue is no longer whether a complaint is moot but instead whether the complainant has met their onus of establishing a violation of the CHRA.

[60] Order for a declaration that the Federal Court of Appeal's decision is binding: I do not consider it necessary, or appropriate, to declare the Federal Court of Appeal decision binding. Court decisions are binding on the Tribunal on issues that are specifically addressed by the court (subject to the caveats set out by the Supreme Court in *Vavilov*

discussed above). The Federal Court of Appeal did not specifically address the mootness issue because it was not argued before it. Therefore, I do not find it appropriate to declare its decision binding on mootness or any other matter not specifically addressed by that Court.

[61] Reimbursement of expenses: As I have found that IRCC has not engaged in abusive conduct, it is not appropriate to caution it or reserve the question of reimbursing legal expenses incurred by other parties because of abusive or obstructionist conduct.

VI. ORDER

[62] For the above reasons, I deny IRCC's request to dismiss the complaint as moot. I also deny Dr. Attaran's requests for orders.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
July 16, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-3104-25

Style of Cause: Dr. Amir Attaran v. Immigration, Refugees and Citizenship Canada

Ruling of the Tribunal Dated: July 16, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

Dr. Amir Attaran, Self-represented

Caroline Carasco, for the Canadian Human Rights Commission

Stephen Kurulek and Nicole Jedlinski, for the Respondent