

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2026 CHRT 6
Date: January 20, 2026
File Nos.: T2563/12020 et al.

Between:

Amir Abdi et al.

Complainants

- and -

Canadian Human Rights Commission

Commission

- and -

**Immigration, Refugees and Citizenship Canada, Public Safety Canada, Canada
Border Services Agency and Canadian Security Intelligence Service**

Respondents

Ruling

Member: Jo-Anne Pickel

Contents

I.	OVERVIEW.....	1
II.	DECISION.....	2
III.	ISSUE	2
IV.	ANALYSIS	3
	A. No automatic stay of Tribunal proceedings when complaints referred to the NSIRA	3
	B. The Tribunal should put these complaints into abeyance.....	3
	(i) Risk of duplication of judicial and legal resources	4
	(ii) Length of the requested abeyance	6
	(iii) Prejudice to the parties	7
	(iv) Summary of factors.....	9
V.	ORDER AND DIRECTIONS	9

I. OVERVIEW

[1] The following are my reasons for placing these complaints into abeyance until March 23, 2026.

[2] The Complainants, who are all Iranian nationals, alleged that they were discriminated against on the basis of national or ethnic origin in the delayed processing of their applications to become permanent residents. Some also alleged delays in their applications for visas or citizenship. The Tribunal initially received over 90 related complaints raising this same issue. Twenty-eight of those complaints remain active before the Tribunal. The Respondents to the complaints are Immigration, Refugees and Citizenship Canada, Public Safety Canada, Canada Border Services Agency, and the Canadian Security Intelligence Service, which I refer to collectively as “the Respondents.”

[3] These complaints have a complicated legal history that I have summarized in my first abeyance ruling in *Abdi et al. v. IRCC et al.* 2025 CHRT 81. For present purposes, it is sufficient to note the following key events:

- After these complaints had already been referred to the Tribunal, the Canadian Human Rights Commission (the “Commission”) referred them to the National Security and Intelligence Review Agency (the NSIRA) under section 45(2)(b) of the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the CHRA).
- After the NSIRA produced its report, the Commission re-referred the complaints to the Tribunal.
- The Respondents sought judicial review of both the NSIRA report and the Commission’s re-referral of the complaints. The Federal Court heard the Respondents’ application for judicial review of the NSIRA report first and it granted that application. The Federal Court set aside the NSIRA report and remanded the matter for determination by a different decision-maker at the NSIRA. Among other things, the Federal Court found that the NSIRA report was “fatally flawed,” lacked thoroughness, and breached procedural fairness due to the NSIRA’s failure to provide the Respondents with a full and fair opportunity to make representations (see *Canada (Attorney General) v. Canada (Human Rights Commission)*, 2025 FC 1137 [*Canada v. CHRC*]).

[4] In my first abeyance ruling, I agreed with the Complainants that the Tribunal takes its jurisdiction from the Commission's referral decision, not any investigation report on which that decision is based (see sections 44(3) and 49(1)–(2) of the CHRA). However, I placed the complaints into abeyance until the parties provided me with the following information:

- a) The steps they had taken to have the Federal Court address the Respondents' application for judicial review of the Commission's referral decision and the status of that application including any hearing dates that had been set; and
- b) The status of the NSIRA's new review of the complaints, including any extension requests made by the NSIRA to the Commission.

[5] The Respondents advised the Tribunal that they discontinued their application for judicial review of the Commission's referral decision. The Commission advised the Tribunal that it granted the NSIRA an extension of time until March 23, 2026, to produce its report under section 46(1) of the CHRA.

[6] The Respondents have made a motion requesting that I put these complaints into a further abeyance pending the receipt of the Commission's decision to either dismiss or deal with the complaints following the issuance of a new NSIRA report. Several Complainants have opposed the motion and the Commission did not take a position on it.

II. DECISION

[7] I grant the Respondents' request for an abeyance, in part. In my view, it is appropriate to grant a further abeyance until March 23, 2026.

III. ISSUE

[8] The sole issue I must decide is whether it is appropriate to place these complaints into abeyance and, if so, until when.

IV. ANALYSIS

A. No automatic stay of Tribunal proceedings when complaints referred to the NSIRA

[9] The Commission's referral of complaints to the NSIRA after they have already been referred to the Tribunal does not lead to an automatic stay of the Tribunal proceeding (see *Ariaratnam v. Canadian Security Intelligence Agency*, 2025 CHRT 105 [*Ariaratnam*]). In *Ariaratnam*, the Tribunal held that the referral of a complaint to the NSIRA under section 45 of the CHRA does not amount to the implicit "recall" of a complaint by the Commission. Such a referral also does not preclude the Tribunal from dealing with the complaint despite the referral to the NSIRA (see *Ariaratnam* at paras 6 and 60). The Tribunal does have a discretion to place matters into abeyance until the conclusion of the NSIRA process, but it is not required to do so.

[10] None of the parties in this case have challenged the Tribunal's findings in *Ariaratnam*. Instead, they put forward opposing views as to whether the Tribunal should exercise its discretion to put these complaints into abeyance.

[11] I fully agree with the Member's analysis in *Ariaratnam* and will not repeat it here. In cases such as the present, the Tribunal must determine whether it should exercise its discretion to place complaints into abeyance pending the outcome of the NSIRA process (see *Ariaratnam* at para 62).

B. The Tribunal should put these complaints into abeyance

[12] The Tribunal will only grant a stay of proceedings or place a complaint into abeyance in exceptional circumstances where it is in the interests of justice to do so (see *Ariaratnam* at para 62 and decisions cited therein). The Tribunal has a mandate to conduct proceedings as informally and expeditiously as the requirements of natural justice and the *Canadian Human Rights Tribunal Rules of Procedure*, 2021, SOR/2021-137 (the "Rules of Procedure") allow (see section 48.9(1) of the CHRA). The Tribunal has granted abeyance requests, where appropriate, to prevent a duplication of work in the justice system if short-

term delay can achieve long-term gain and a better result (see *Bailie et al. v. Air Canada and Air Canada Pilots Association*, 2012 CHRT 6 at para 22).

[13] In assessing whether it is in the interests of justice to place a complaint into abeyance, the Tribunal will consider all of the circumstances of the complaint, including the risk of duplication of judicial and legal resources, the length of the requested abeyance, the reason for the request, the stage of the proceedings, and any prejudice to the parties (see *Adams v. Canadian Nuclear Laboratories*, 2024 CHRT 87 at para 11 [*Adams*]).

[14] In assessing these factors in *Ariaratnam*, the Tribunal found that it was in the interests of justice not to grant the abeyance sought in that case. I examine the factors set out in *Adams* below and explain why the situation in *Ariaratnam* differs significantly from the circumstances in this case.

(i) Risk of duplication of judicial and legal resources

[15] In my view, there is a risk of duplication of judicial and legal resources if the Tribunal were to proceed with these complaints. This risk of duplication arises from the reason for the abeyance request and the current stage of this proceeding.

[16] The reason for this abeyance request is the fact that the Federal Court has concluded that the Commission's referral of these complaints was based on a flawed report by the NSIRA. This is a factor that distinguishes these complaints from the complaint in *Ariaratnam*. I agree with the Respondents that the Tribunal cannot simply ignore the Federal Court's strong criticisms of the first NSIRA report and its decision to remand the matter back to the NSIRA. The new NSIRA report will have to take into account evidence that the NSIRA failed to allow the Respondents to advance the first time around. Therefore, there is a risk that the new NSIRA report could lead the Commission to change its position regarding the referral of these complaints or alter their scope.

[17] There is also a risk of duplication of judicial and legal resources due to the stage of proceedings in this case. This is also a factor that distinguishes this case from *Ariaratnam*. The *Ariaratnam* case was at an early stage of proceedings when the Tribunal issued its abeyance decision. More importantly, as the Tribunal noted in that case, the next step in

that matter was for it to address a motion brought by the respondent to clarify and limit the scope of the complaint. As noted by the Member in *Ariaratnam*, if the Tribunal were to fully grant the respondent's scope motion in that case, the NSIRA process would presumably become moot (see *Ariaratnam* at para 65). Given these circumstances, it was reasonable for the Tribunal to find that it was in the interests of justice to deny the respondent's abeyance request and move forward to address the scope motion.

[18] By contrast, the present complaints are at a more advanced stage of proceedings. Both parties in this case have already exchanged Statements of Particulars (SOPs). The Respondents have made the disclosure of documents required by the Rules of Procedure, subject to their obligations of ongoing disclosure. I have addressed several motions and conducted a few case management calls with the parties. The next steps in these complaints will be to address a production request made by one of the Complainants and any other final preliminary requests made by the parties before proceeding to decide how best to approach the hearing of the 28 separate complaints that remain active in this case.

[19] I do not agree with the submissions made by various Complainants that it is in the interests of justice for the Tribunal to move forward with the next steps in this case pending the results of the NSIRA report. In my view, proceeding with the next steps in this case while the NSIRA produces a second report risks leading to incongruous or conflicting results as the new report could lead the Commission to either dismiss the complaints or alter their scope. I do not agree with the Complainants that this risk is merely speculative. In my view, the Tribunal has moved forward with case management as far as it can without entering into a period where there is a risk of duplicating legal resources due to the pending NSIRA report which could lead to either the dismissal of the complaints or significant changes to their scope.

[20] Finally, I note that many Complainants have argued that the Tribunal is not bound by anything in the NSIRA report and that it must make its own decision based on the evidence in these cases. Many Complainants argued that the Tribunal has the tools to ensure the confidentiality of national security evidence—for example, by hearing evidence *in camera* or issuing confidentiality orders. For this reason, they argued that there is no need for the Tribunal to await the NSIRA report.

[21] In my view, the Complainants who have made these arguments have not fully recognized the differences between the NSIRA process and the Commission's standard investigation process. They have also failed to recognize the limitations on the Tribunal's powers to hear any classified national security evidence. Members of this Tribunal have secret clearance, not top secret clearance. Therefore, Tribunal members themselves would be unable to review any top security documents that could be reviewed by the NSIRA. This is one of the reasons why the NSIRA report is of great significance to this proceeding.

[22] I agree with the Complainants that the Tribunal should proceed with interim steps pending the release of the new NSIRA report. However, as noted above, this case is not like *Ariaratnam*, in which the Tribunal had before it a scope motion that might make the NSIRA proceeding moot. This case is at a more advanced stage in which I will soon need to determine the best process to take to hear these cases. In my view, it is not appropriate to move forward with such decisions while the NSIRA report remains pending.

[23] For these reasons, this set of factors weighs in favour of granting the Respondents' abeyance request.

(ii) Length of the requested abeyance

[24] I agree with the Complainants that these complaints should not be put on hold indefinitely. However, that is not what the Respondents have requested. The Respondents have requested that I grant an abeyance until a new NSIRA report is finalized and the Commission has decided whether it will either dismiss these complaints or deal with them based on the conclusions in the new report.

[25] Despite the length of the abeyance requested by the Respondents, I find it more appropriate to approach the abeyance issue step-by-step to ensure that any delays are minimized. At present, the Commission has granted the NSIRA until March 23, 2026, to produce its new report. This is not a significant length of time to place these complaints into abeyance.

[26] Therefore, this factor weighs in favour of granting the abeyance until the current deadline for the NSIRA report set by the Commission.

(iii) Prejudice to the parties

[27] I do not agree with the Complainants that any prejudice they would experience from the abeyance favours denying the Respondents' motion.

[28] I recognize, and understand, the Complainants' concerns about the length of time that it has taken to address their complaints. The reasons for this lengthy period of time are multiple and the Tribunal has addressed them in previous rulings. I take seriously the principle emphasized by the Complainants that "justice delayed is justice denied." However, that principle must be balanced against other important principles. The Tribunal has a duty to ensure that it proceeds in a manner that is fair to all parties before it. It also has a duty to pay careful attention to Federal Court decisions. Moreover, as noted by the Federal Court, this case raises questions of national security (see *Canada v. CHRC* at para 55) which require that the case be addressed in accordance with the legislation governing such questions.

[29] While I do recognize the frustration and anxiety experienced by the Complainants due to the time it has taken to determine their complaints, I do not accept their arguments that they will continue to experience significant ongoing and irreparable harms from the discriminatory practices alleged in their complaints during any abeyance period. These complaints primarily relate to the Respondents' delays in processing the Complainants' applications for permanent resident status, with one complaint alleging a delay in granting citizenship and another alleging a delay in processing visas. These delays occurred in and around 2016 and 2017. All of the Complainants were eventually granted permanent resident status and all, or almost all, have obtained Canadian citizenship. Earlier in this proceeding, the Respondents requested further particulars from the Complainants about the harms they experienced due to the delay in processing their immigration applications. None of the Complainants alleged ongoing harms to themselves personally. Instead, they alleged harms that arose from having to put their lives on hold during the delay in processing their immigration applications in and around 2016 and 2017. These harms included things such as lost job and scholarship opportunities, the inability to travel outside of Canada and sponsor relatives during the time period in question, additional expenses in the form of

tuition, legal fees, and medical fees, and considerable stress and anxiety during the time it took for the Respondents to process the Complainants' applications.

[30] In my view, it is significant that the Complainants have not alleged ongoing personal harms from the Respondents' allegedly discriminatory practices that could be avoided by refusing the abeyance request in this case. To make this point is not to minimize in any way the very real and understandable desire the Complainants have to finally have their complaints determined. At all times, I have sought to proceed with this case as expeditiously as possible by setting deadlines and dealing with matters informally when possible. However, there are limits to how expeditiously the Tribunal can move forward in light of the legal framework that applies to the issues raised in this case.

[31] The Complainants also argued that, if I place these complaints into abeyance, they would suffer significant prejudice in making out their cases due to fading memories or the potential loss of evidence. However, I am not persuaded by these arguments. The facts surrounding the processing times in this case will primarily be established through the Respondents' own records. Each Complainant has already been required to produce a detailed SOP and reply, and to disclose any documents in their possession that are arguably relevant to the facts, issues, and remedies in this case. Most Complainants used the same template for their SOPs to which they added details relating to the length of the delays in their particular case. Following a request from the Respondents, I required that many of the Complainants provide particulars of the harms they experienced from the Respondents' allegedly discriminatory practices. All of this information, which is relevant to the remedies requested by the Complainants, has already been recorded in their SOPs and replies and any of the Complainants' arguably relevant documents have already been disclosed to the Respondents. For the above reasons, I do not agree that the Complainants would face significant additional difficulties in making out their cases due to any lost documents or fading memories if I put these complaints into abeyance.

[32] By contrast, I find that the Respondents would likely experience prejudice if I were to proceed toward a hearing of these complaints which were referred by the Commission based on a flawed NSIRA report that breached the Respondents' procedural fairness rights.

(iv) Summary of factors

[33] In weighing the various factors set out above, I find that it is in the interests of justice to grant an abeyance in this case. I understand the Respondents' arguments that the complaints should be placed into abeyance until the NSIRA issues a new report and the Commission makes a decision in relation to it. However, as noted above, I prefer to take a step-by-step approach to ensure that any delays caused by the abeyance are minimized.

V. ORDER AND DIRECTIONS

[34] I grant the Respondents' motion in part. The Tribunal will place these complaints into abeyance until **March 23, 2026**.

[35] By **March 24, 2026**, the Commission must confirm with the Tribunal and the other parties that it has received the new NSIRA report.

[36] Assuming that the Commission receives the new NSIRA report by March 23, 2026, it must advise the Tribunal and the other parties, by **March 30, 2026**, of the length of time it requires to determine whether it will dismiss or pursue these complaints. It is expected that the Commission will render its determination on these issues as expeditiously as possible given the length of time that has already elapsed since the filing of the complaints.

[37] If the Commission receives a request for an extension of time from the NSIRA at any point, it must advise the Tribunal and the other parties immediately. It must also inform the Tribunal and the other parties of its response to any such extension request.

[38] The abeyance will lapse on **March 23, 2026**. If the Respondents wish to request a further period of abeyance, they must renew their abeyance motion.

[39] I will issue further directions as necessary.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
January 20, 2026

Canadian Human Rights Tribunal

Parties of Record

File Nos.: T2563/12020 et al.

Style of Cause: Amir Abdi et al. v. Immigration, Refugees and Citizenship Canada, Public Safety Canada, Canada Border Services Agency and Canadian Security Intelligence Service

Ruling of the Tribunal Dated: January 20, 2026

Motion dealt with in writing without appearance of parties

Written representations by:

A.B., Bahman Fathi Ajirloo, Hamid Arabzadeh, Ramtin Ardeshiri, Amin Badriahari, Mitra Bahri, Sadegh Ekrami, Leila Kamalabyaneh, Hamid Khaleghihamedani, Alireza Mansouri, Amirmohammad Mobasseri, Seyedmehdi Mousavidehaghani, Samira Osati, Pouyan Zamani, Self-represented Complainants

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