

November 18, 2024

RE: CILA's Report on Legislative Reform: "Let's Clean Up Our Act."

Dear Dr. Kocchar

We write further to a comprehensive report on legislative reform (the "Report") that the Canadian Immigration Lawyers Association ("CILA") sent to Immigration, Refugees and Citizenship Canada ("IRCC") in May 2024.

The [report](#) includes many recommendations for IRCC's consideration. The recommendations include suggested changes in policy from experienced lawyers who practice immigration law. It also includes several suggested changes that might be characterized as technical, but are still important to ensure that immigration legislation is applied fairly and effectively.

We invite you to review the report itself and to follow up with any comments or questions you might have.

However, in the meantime we thought we would highlight some of the specific matters that are deserved of immediate attention, either because they should be neither controversial nor complicated to implement, or because these issues should be addressed sooner than later given the issue and the attendant ensuing difficulties.

Having a "Bill of Rights" for Those Who Engage with IRCC

Obviously, there is considerable pressure on IRCC officials to deal with high volumes of applications, queries, follow ups and a variety of related matters. Applicants themselves may reach out to IRCC for support or assistance or may ask representatives or Members of Parliament to make queries on their behalf. Sometimes when responses are not satisfactory or not forthcoming then the Federal Court may get involved. This takes up considerable resources.



Those who make applications or queries with the immigration system may be Canadian citizens or permanent residents and have legitimate expectations as to the responsiveness of officials. Those who are foreign nationals will typically pay significant application fees and thus have every right to expect that there will be appropriate and timely responses.

One mechanism to be considered is the implementation of a “Bill of Rights” and ombudsman for those dealing with IRCC and Canada Border Services Agency (“CBSA”). Indeed, one Member of Parliament, Ms. Jenny Kwan, recently introduced a [private member’s bill](#) proposing this. She ultimately did not proceed with it but may take it up again in the future. CILA supports such a bill.

As noted in the Report (p.30), many government departments or agencies do have such a mechanism. We invite IRCC to give attention to this proposal and CILA remains committed to collaborating as to what the details might be.

Right to Counsel

Not surprisingly CILA is strongly supportive of a clearer and unequivocal recognition of the right to counsel. This could be included in the Bill of Rights referenced above. Ideally it should be included in *The Immigration and Refugee Protection Act* (the “Act”).

As outlined in the Report (p. 32), the clear recognition of the right to counsel is something that would be of benefit to many including IRCC, CBSA, and, most importantly the public.

Restoration

As outlined at p.25 of the Report there are many who find themselves unable to work or study while waiting for restoration applications to be processed. The processing times for restoration applications are such that this can mean serious hardship for those who for whatever reason (sometimes through no fault of theirs) find they are without status. We invite you to give particular attention to this proposal.



Maintained Status

As outlined at p. 23 of the report it can be an unnecessary hardship if those on maintained status are unable to leave Canada without losing status given processing times. There really is no good reason for this. We invite you to give attention to this proposal.

We also invite you to consider a related issue not in the Report. IRCC will typically send out letters acknowledging applications for extensions and explaining that one will maintain status until a certain date. However, this date is an arbitrary one reflective of processing times but having no basis in law. Indeed, it causes confusion amongst many applicants. We do not believe IRCC should specify dates in a letter given the law already addresses this.

Clarifying Status of Visitor Records

While this issue is also not in the Report, it similarly relates to the matter of confusion with respect to the status of temporary residents in Canada. CILA has observed there are differences in how IRCC and the CBSA interpret the validity of Visitor Records. This is problematic since temporary residents may re-enter Canada with what they believe is a valid Visitor Record, only for them to discover months later IRCC has determined the Visitor Record became invalid upon the temporary resident leaving Canada, and hence the temporary resident must now restore their status. CILA concurs with the recommendations made by the Canadian Bar Association on this matter in [their letter](#) to IRCC from February 2023.

More Efficient Way to Process Extensions of Status When a Visa is Required

As noted on p.23 of the Report, currently those who are in Canada, need to extend their status and require visas need to go through a two-step process (extending status then getting a new visa). This adds unnecessary processing time and delays. This should be able to be done through a single application.



As has been noted we believe all of the Report's recommendations are deserved of serious consideration. That being so we did wish to identify the issues above that are deserved of immediate attention.

We thank you once again Dr. Kocchar for your receptiveness to the Report.

Sincerely,

Randolph Hahn
Member, Board of Directors
Canadian Immigration Lawyers Association

