

October 27, 2026

RE: Systemic Misinterpretation of Common-Law Status

Dear Mr. Gallivan,

The Canadian Immigration Lawyers Association (“CILA”) writes to address a systemic problem affecting unrepresented family class applicants and sponsored foreign nationals across Canada.

CILA is a national association representing over 650 immigration lawyers across Canada, committed to advancing the rule of law, access to justice, and improvements to Canada’s immigration system. Our recommendations are informed by our members’ practical experience representing individuals and families navigating that system. We have had the pleasure of sharing our recommendations with various Ministers and Deputy Ministers at your department throughout the years.

Hundreds of families are permanently torn apart, subjected to findings of misrepresentation, and barred from sponsorship not through deceit, but through legal misunderstanding and cultural differences regarding the definition of common-law partnerships in Canada.

The current immigration forms across most types of applications fail to bridge the gap between Canadian legal definitions and the lived realities of unrepresented applicants. When an applicant checks "single" because they understand “single” to mean unmarried, they may face findings of misrepresentation and restrictions on future sponsorships. CILA urges Immigration, Refugees and Citizenship Canada (IRCC) to implement practical structural fixes to application forms to prevent further irreversible harm.

In Canadian immigration law, a common-law partnership is legally established after cohabiting continuously in a conjugal relationship for a minimum of one year. However, across numerous cultures and legal traditions worldwide, the concept of a "common-law partner" simply does not exist; individuals are categorized strictly as either legally married or single.

Applicants may therefore be unaware that their relationship can acquire common-law status. When completing their forms without legal counsel, they may check "single" because:

- They are not legally married or formally engaged;
- They maintain separate finances or do not hold joint documents, viewing themselves merely as cohabiting roommates or dating partners under their cultural framework.

In these cases, applicants have no intent to deceive; rather, they are unaware of the fact that Canadian law recognizes their relationship as a formal legal union. When these couples later marry or attempt to update their files, this innocent omission is retroactively characterized as a material misrepresentation.

This systemic misunderstanding triggers legal barriers under the *Immigration and Refugee Protection Act* (“IRPA”) and its Regulations (“IRPR”): potential allegations of misrepresentation and sponsorship bars.



Suite 1120, Bankers Hall West
888 - 3rd Street SW
Calgary, AB T2P 5C5



866-406-2452



info@cila.co



www.cila.co

An omission may constitute misrepresentation if it induces or could induce an error in the administration of the Act. Yet, serious consequences can follow even where the applicant gained no immigration advantage and, if the relationship had been disclosed initially, the partner could have obtained permanent residence. Treating an uninformed, accidental omission with the same consequences that apply to deliberate concealment is disproportionate and undermines the objective of family reunification.

Where paragraph 117(9)(d) of the IRPR applies, section 65 of the IRPA prevents the Immigration Appeal Division from granting humanitarian and compassionate relief, leaving impacted families to seek an exemption under subsection 25(1) of the IRPA. However, our members have observed a hardening of adjudication standards. Despite compiling exhaustive evidence demonstrating genuine omission, profound establishment, psychological trauma, and the complete absence of mal-intent, H&C approvals have grown increasingly difficult to secure. Families are left with no assured route to reunification, watching their lives, family reunification, and futures dissolve over a checkbox error made years prior.

Clearer forms would also improve the efficiency and integrity of the immigration system by promoting accurate disclosure at the outset. They would help reduce avoidable application returns and repeat applications, as well as the need for H&C requests, appeals, and judicial review arising from these misunderstandings. This would conserve IRCC and court resources and reduce costs and delays for applicants and taxpayers.

Recommendations

To promote accurate disclosure, reduce avoidable errors, and improve the efficiency of the immigration system, CILA recommends that IRCC take the following steps:

1. Redesign relationship-status questions with plain-language explanations.

Place the Canadian immigration definition of a common-law partnership directly beside relationship-status questions in all paper and online applications. Do not rely on applicants consulting a separate guide.

Example: “Note: Under Canadian law, if you have lived continuously with a romantic partner for 12 months or more, you are legally considered a common-law partner, even if you are not married and not engaged.”

2. Add prominent notices and confirmation prompts to application portals.

At the beginning of temporary residence, permanent residence, and sponsorship applications, explain the common-law definition and the consequences of failing to declare a qualifying relationship. Repeat this information at the relationship-status question and require applicants to confirm that they have reviewed it before proceeding. Clearly explain the obligation to update relationship status during processing.

CILA welcomes the opportunity to discuss these systemic issues further and collaborate with IRCC on practical, preventative solutions that safeguard family reunification while upholding the integrity of Canada's immigration system.



Sincerely,



Erkan Ates
Co-President



Mary Keyork
Director



Suite 1120, Bankers Hall West
888 - 3rd Street SW
Calgary, AB T2P 5C5



866-406-2452



info@cila.co



www.cila.co