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### CANADIAN CITIZENSHIP AND IMMIGRATION INADMISSIBILITY LAW

Bellissimo

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**Canadian Citizenship and Immigration Inadmissibility Law, 2nd Edition** is the only resource that provides focused guidance on the rapidly expanding area of inadmissibility law. A practical and tactical guide that combines, summarizes, and analyzes hundreds of decisions and key legislation, this publication speaks in practical terms to the key statutory framework, emerging trends, policy developments and relevant leading case law and offers practical tips and key memoranda and sample submissions. This publication includes: comprehensive analyses of the statutory framework for criminal, medical, and financial inadmissibility as well as Canadian employer compliance and the evolving area of misrepresentation law including citizenship revocation; comprehensive and detailed analysis of the distinct treatment and consequences of inadmissibility on various actors in Citizenship, Immigration, and Protected Person law; an overview of remedies; discussion of detention and release, appeals, equivalency defences, judicial reviews, and stays; and, case law annotations and detailed annotated precedents based on cases. The publication also examines exceptional remedies under the Act including humanitarian and compassionate grounds applications, temporary resident permits, rehabilitation, record suspensions, and collateral consequences of criminal convictions. In all, this publication like no other delves into the nuances of inadmissibility law from many legal and practical perspectives.

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## What's New in this Update

This release features significant updates to the commentary, case law and legislation in Chapter 2 (Protected Persons, Temporary Residents, Criminality and the Inadmissibility Process).

## Highlights

**Chapter 2. Protected Persons, Temporary Residents, Criminality and the Inadmissibility Process – II. Overview-Refugee Protection in Canada – B. The Refugee Process – § 2:7. Making a Claim-In or Outside Canada** – Significant updates have been made to § 2:7. Making a Claim-In or Outside Canada. Below is an excerpt from the commentary added in this release:

Following the cancellation of a Sponsorship Agreement Holder's (SAH) Sponsorship Agreement, IRCC announced another new temporary public policy to assist refugee applicants affected by this cancellation on April 23, 2024.<sup>11</sup> When an SAH sponsorship agreement is cancelled, it can have profound implications for refugee applicants awaiting resettlement. These individuals may suddenly find themselves without a valid sponsorship, putting their resettlement prospects in jeopardy. This temporary public policy acknowledges the challenges faced by refugee applicants, many of whom have longstanding ties to Canada and have endured prolonged waiting periods throughout their application process.

The temporary public policy will allow for an exemption of the requirement for refugee applicants to submit a Refugee Status Determination (RSD) document with their sponsorship application. This exemption will streamline the sponsorship process, making it more accessible for Groups of Five (G5) and Community Sponsor (CS) groups to extend their support to impacted individuals. To be eligible for the exemption, the following conditions must be met:

- the applicant was sponsored by an organization whose Sponsorship Agreement has been cancelled;
- the principal applicant has received a Procedural Fairness Letter requesting that the applicant find a new sponsor;
- the period provided in the Procedural Fairness Letter to find a new sponsor has not elapsed; and
- the Procedural Fairness Letter has been issued within the effective period of the temporary policy.

Foreign nationals and their accompanying family members must still meet standard regulatory and legislative requirements, including those related to criminal, security, and health grounds.

**Chapter 2. Protected Persons, Temporary Residents, Criminality and the Inadmissibility Process – V. Statutory Framework – § 2:31 Emerging Trends** – A new section, § 2:31 Emerging Trends, has been added to this chapter. Below is an excerpt from this new section:

With respect to temporary residents [...] on October 24, 2024, the Minister of Immigration, Refugees and Citizenship announced the 2025-2027 Immigration Levels Plan.<sup>120</sup> This plan, which includes controlled targets for temporary residents such as international students and foreign workers, will “pause population growth in the short term to achieve well-managed, sustainable growth in the long term.”<sup>121</sup>

The targets for new temporary resident arrivals are set at 673,650 in 2025 (including 367,750 workers and 305,900 students), 516,600 in 2026 (including 210,700 workers and 305,900 students), and 543,600 in 2027 (including 237,700 workers and 305,900 students).<sup>122</sup> The Government of Canada recognized the key role temporary and permanent residents play in supporting Canada’s economic growth, addressing labour market shortages, and contributing to the diversity of communities across the country.<sup>123</sup> However, in moving away from post-pandemic measure, the government was identified a need to better align temporary and permanent resident immigration levels with community capacity.<sup>124</sup> A cap is not being implemented for those applying for visitor visas.

**Chapter 2. Protected Persons, Temporary Residents, Criminality and the Inadmissibility Process – Appendix 2A. Case Law on Protected Persons/Refugees – 2A:2. Article 1F(b) of the Refugee Convention: Serious, Non-Political Crimes** – The following case has been added to this section: The Applicant, a citizen of Colombia, along with his spouse, filed a refugee claim upon entry into Canada in December 2019 on the basis of fear of persecution from a paramilitary group in Colombia. The Minister of Public Safety (Minister) intervened in the Applicant’s proceedings before the RPD and sought to exclude the Applicant from refugee protection. The Minister alleged that there were serious reasons for considering that the Applicant committed a serious non-political crime prior to entering Canada pursuant to Article 1F(b) of the United Nations Convention on the Status of Refugees?(Convention) and section 98 of the IRPA.

The Minister provided a document in their disclosure package titled “Colombian Open Source Criminal Database Check” that indicated that the Applicant was convicted under the Colombian Penal code and received a sentence of 4 years and 10 months. During the RPD hearings, the Applicant requested the hyperlink to the document as the Applicant’s counsel was unable to locate it through a Google search, but the Minister did not provided the link despite agreeing to do so. The RPD found the document to be genuine and excluded the Applicant from refugee protection. The Applicant then appealed the decision to the RAD where he raised the same issue as the Minister still had not provided the hyperlink. The RAD found the document to be authentic and upheld the RPD’s findings.

The issues before the Court were (1) whether the RAD erred in its findings with respect to the authenticity of the Document, and (2) whether the RAD had an obligation to request the Minister to provide further information about the hyperlink of the Document.

The Honourable Madam Justice Go held that the RAD’s reasons in finding the Document authentic fell short of the required justification. Justice Go also concluded that the RAD had an obligation to consider asking the Minister for further information about the hyperlink before rendering a decision that carried serious consequences for the Applicant. The application was granted, and the decision was set aside: *Valderrama v. Canada (Minister of Citizenship and Immigration)*, 2024 FC 1591 (FC).