

ALL ABOUT *Refusals*

Refusal letters

If a Privately Sponsored Refugee has been refused and you want to better understand the reasons for refusal, the first step is to review the refusal letter. Copies of the refusal letter are often sent to both the sponsor and the applicant. The letter explains why the officer was not satisfied that the applicant met the requirements for resettlement to Canada. You may also wish to ask the applicant to describe any concerns the officer expressed at interview. Familiarizing yourself with the eligibility and admissibility guidelines may also help you understand how the officer came to their decision.

CAIPS – Computer Assisted Immigration Processing System – is CIC’s tracking system for cases processed overseas



UNHCR Photo by Philip Behan

Requesting More Information

If, after reviewing the information available, you require more information about the decision making process or about the decision itself, you can send an enquiry by e-mail to the visa office where the decision was made. Visa office e-mail addresses are available at: www.cic.gc.ca/english/information/offices/missions.asp. Enquiries should be sent only if the information is not available in the refusal letter, on the website, or in the manual.

Please note that in order to release any personal information from the applicant’s file to you, the visa office needs to receive the applicant’s signed consent in writing (see getting permission). This may already be on file, or may be scanned and attached to your e-mail enquiry.

Getting Permission

Please note that in order to release any personal information from the applicant’s file to the sponsor the visa office needs to receive the applicant’s signed consent in writing. The refugee and all family members over 18 must have signed the *IMM5476 Use of Representative form* available at: www.cic.gc.ca/english/pdf/kits/forms/IMM5476E.PDF and the *IMM5475 Authority to Release Personal Information to a Designated Individual form* available at: www.cic.gc.ca/english/pdf/kits/forms/IMM5475E.pdf.

The *Privacy Act* requires that the applicant provide consent for the release of case specific information. This is also true if you wish to make request for the CAIPS notes under the *Access to Information Act*. Answers to Frequently Asked questions about making requests under these Acts are available on the CIC website: www.cic.gc.ca/english/department/atip/faq.asp

Requesting CAIPS

Under the *Access to Information Act*, a Canadian citizen, permanent resident or a person inside Canada can request a complete copy of the complete CIC file relating to the person’s resettlement application. The sponsor can submit a request on behalf of the refugee so long as the appropriate forms have been complete (see *Getting Permission*). An *Access to Information Request form (IMM5563)* needs to be completed. *Note: You don’t need to fill in the Requester’s reference no. or ATIP file no. boxes – those areas do not apply in this case.*

Send the forms and the administrative fee payable to the Receiver General of Canada to:

Public Rights Administration
Citizenship and Immigration
Canada
360 Laurier Avenue West, 10th
floor
Ottawa, ON K1A 1L1



Judicial Review

There is no appeal mechanism in Canadian Refugee Resettlement law; instead there is the possibility of a judicial review.

While an appeal can be done based on the merits of the case, in the case of a judicial review, the Court cannot substitute its decision for that of the decision maker. Rather, the Court examines the process that led to the decision and determines if this process was fair and the decision was reasonable. If the Court determines that it was not, the Court will only quash the decision in question and order a re-determination. A lawyer must apply for judicial review on behalf of the refugee.

Review by the Federal Court is a two-stage process. In the first stage, which is known as the “application for leave” stage, the Court reviews the documents and legal arguments related to your case. You must show the Court that an error was made in the decision or that the decision was not fair or reasonable. If leave is given, this means the Court has agreed to examine the decision in greater depth. At this second stage, called “judicial review,” an oral hearing is held before the Court in order to explain why the original decision was wrong.

Tips to Avoid Negative Decisions

Although applying for judicial review is possible, sponsors must focus on proactive work, such as thorough case assessments, in order to avoid negative decisions.

It is important that sponsors **ensure that a case is well-documented when it is submitted**. That includes identity and corroborating documents such as police or medical reports, employment letters, etc, as well as *objective* reports on country conditions from organizations such as Amnesty International, Human Rights Watch, the US Department of State, the UNHCR, and major media outlets. Remember: documents can be filed up until the point a decision is made. Even after the interview if a sponsor learns that issues came up during the interview that leads them to believe that there needs to be clarification, supporting documents can still be submitted to the visa office, so long as a final decision has not yet been made. Any information received up until that point should be taken into consideration. This is part of procedural law that allows people to submit the best case possible. If this type of situation arises, it is important to notify the visa post immediately in writing that you will be sending further evidence and request that no decision be rendered until that new evidence has been received.

Interview preparation is very important when possible. Talk to the refugee before they go into the interview. It is important for the refugee to understand what is going to happen and the purpose of the interview. To go over the key facts that the refugee needs to convey to the visa officer. Emphasize the importance of focusing on what they know and admitting what they do not know. Also emphasize that if they have ANY concerns about the interpreter or the quality of the interpretation they should raise it with the officer immediately during the interview.

Post interview debriefing is also very useful in the event that the case is refused and the case needs to be taken to Court. Having the refugee(s) recount what happened at the interview, what was asked, what they answered, whether there were problems with the interpreter, whether the officer appeared to be listening or distracted, etc., provides a record that can be used to rebut any differing report of the interview.

What to look for in a case

Although it is possible to apply for judicial review in all rejected cases, this is a costly process and best used in certain cases. When deciding whether to proceed with a negative decision you should look for:

- A well-documented case: good narrative provided to the visa officer, supporting documents, etc.
- If credibility is stated as part of the visa officer’s decision, this will be harder to review because you will only have a paper document when proving your case
- Relevant factual evidence that is ignored or not believed is a good example of a case to go forward with; so are comments that disclose a clear bias or CAIPS notes that show the officer was not aware of a basic element of the case.