



Immigration Admissibility Hearings

**Immigration and
Refugee Board of Canada**

Immigration Division



ISBN: 0-662-43343-2

Catalogue Number: MQ21-34/2006E-PDF

Produced by: Communications Directorate, Immigration and Refugee Board
of Canada, May 2006

www.irb-cisr.gc.ca

This brochure explains immigration admissibility hearings held by the Immigration and Refugee Board of Canada. It is not a legal document. For precise legal information, please consult the *Immigration and Refugee Protection Act*, the *Immigration and Refugee Protection Regulations*, and the *Immigration Division Rules*. You can find them on the IRB Web site at *www.irb-cisr.gc.ca*.

Who should read this pamphlet?

You should read this pamphlet if you, or someone you know, have been asked to appear before the Immigration Division of the Immigration and Refugee Board of Canada (IRB) for an immigration admissibility hearing.

What role does the IRB play in immigration admissibility hearings?

The IRB hears your case and decides whether you may enter or remain in Canada. The IRB is an independent administrative tribunal that makes legally binding decisions – like a court, only in a less formal manner. The IRB also decides other immigration and refugee matters. For more information about the IRB, visit the IRB Web site at www.irb-cisr.gc.ca.

What role does the Canada Border Services Agency (CBSA) play in immigration admissibility hearings?

The CBSA's role is to manage, control and secure Canadian borders. It is responsible for allowing people to enter Canada and for detaining and removing people from Canada who do not have the right to remain here. For more information about the CBSA, visit the CBSA Web site at www.cbsa-asfc.gc.ca.

The ***Immigration and Refugee Protection Act (IRPA)*** is an important part of Canada's immigration law. IRPA deals with immigration and refugee protection matters in Canada, including who can enter and remain in Canada. You can read IRPA on the IRB Web site at www.irb-cisr.gc.ca.

Why might you be ordered to appear at an immigration admissibility hearing?

Under Canada's immigration law, if the CBSA has reason to believe that you should not enter or remain in Canada, you may be ordered to appear at an immigration admissibility hearing before the Immigration Division of the IRB. A member (decision-maker) of the Immigration Division will then decide independently if you are admissible – that is, whether or not you may enter or remain in Canada.

Why might you be inadmissible to Canada?

If you are a foreign national or a permanent resident, you might not be allowed to enter or remain in Canada if you:

- Have failed in some way to comply with Canada's immigration law (IRPA)
- Are a security threat
- Have violated human or international rights
- Have been involved in crime or organized crime
- Have misrepresented yourself, such as, by presenting false information
- Have a health condition (in some cases)
- Do not have enough money to support yourself financially, or
- Are a close relative of someone who is inadmissible (in some cases)

If any one of these reasons for inadmissibility applies to you, you may be asked to appear at an immigration inadmissibility hearing.

A **permanent resident** is a person whom the Government of Canada has allowed to live permanently in Canada, and who may later apply to become a Canadian citizen.

A **foreign national** is a person from another country who is not a Canadian citizen or a permanent resident.

Who attends an admissibility hearing?

- You, to present your story
- Your counsel, if you have one, to help you present your story
- An interpreter, provided by the IRB, if you need one to speak for you in English or French
- Minister's counsel, to present the CBSA's case
- Any witnesses, if they are called to give information
- A representative of your country's embassy or consulate, if you request it
- A representative of the United Nations High Commissioner for Refugees (UNHCR), in some cases, if you are also a refugee claimant
- An IRB member, to decide the matter

Immigration admissibility hearings are usually **open to the public**. Media or other observers may sit in or have access to information about your case. The hearing may be held in private if, for example, you are also a refugee claimant, or if a public hearing would threaten your safety.

What happens at an admissibility hearing?

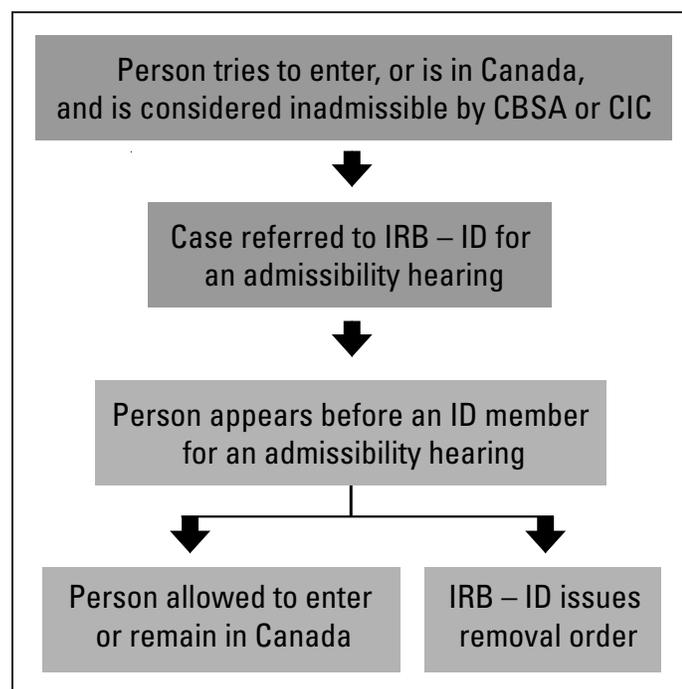
The IRB member is in charge of the hearing. The member will start by introducing everyone and explaining what is about to happen to make sure you understand. If you have an interpreter, the member will check that you understand each other.

Next:

- Minister's counsel will explain why the CBSA believes you should not be allowed to enter or remain in Canada.
- You or your counsel will have the opportunity to respond, to explain your story and to ask questions.

- The member may ask you questions throughout the hearing.
- If there are witnesses to present information, Minister's counsel, you, your counsel or the member may ask them questions.

After hearing from both sides, the member will decide whether you should be allowed to enter or remain in Canada, or whether you must leave Canada because you are inadmissible. The member will usually state his or her decision and the reasons for this decision at the end of the hearing. If not, the IRB will send you a copy of the decision and the reasons in the mail shortly after the hearing.



What happens if the member decides that you may enter or remain in Canada?

If the member determines that you are admissible, you will be allowed to enter or remain in Canada. If you are in detention, the member will order your release.

What happens if the member decides that you may not enter or remain in Canada?

If the member decides that you are inadmissible and that you may not enter or remain in Canada, he or she will issue a removal order to allow the CBSA to remove you from Canada. If you are in detention, the member may order that you remain in detention until you are removed.

What happens if the member issues a removal order? What do the different types of orders mean?

Departure order

Under a departure order, you must leave Canada *within 30 days* after the order comes into effect. Before leaving, you must contact the CBSA to get a certificate of departure as proof that you are leaving Canada. You do this by going to an immigration office at a port of entry (such as an airport, a border crossing or a port). If you do not leave Canada within 30 days and do not obtain a certificate of departure, the departure order automatically becomes a deportation order.

Deportation order

Under a deportation order, you must leave Canada. In most cases, you may not return unless you have the written permission from the Government of Canada. This order is usually issued for serious matters, such as a security threat or a serious violation of Canada's immigration law.

Exclusion order

Under an exclusion order, you must leave Canada and may not return for one year unless you have written permission from the Government of Canada. In some cases, you may be barred from returning to Canada for two years.



What if the IRB orders you to leave Canada? Can you appeal the ID's decision?

In some cases, you may be able to appeal a removal order to the Immigration Appeal Division (IAD) of the IRB. If you are successful, the IAD may accept your appeal and cancel the removal order. Or, it may stay the removal order – that is, put it on hold for a certain period of time. Either way, it means the CBSA cannot act on the order to remove you from Canada.

Not everyone is allowed to appeal. For example, if you have been convicted of a crime with a sentence of two years or more, or if you are a security threat, you may not appeal the removal order.

You can ask for leave (or permission) of the Federal Court of Canada for judicial review of the decision.

What if you are also claiming refugee protection?

If you are claiming refugee protection in Canada, the Refugee Protection Division of the IRB will process your refugee claim. If you have not done so already, you must still meet the 28-day deadline to file your Personal Information Form (PIF) with the IRB, or the Refugee Protection Division of the IRB might not hear your claim. A CBSA officer will provide you with the Personal Information Form and other information. You can also visit the IRB Web site at www.irb-cisr.gc.ca.

What if you are also detained?

A member will also review the reasons for your detention at a separate detention review hearing. This hearing may be held on the same day as your admissibility hearing (often right after), or it may be scheduled for another time. You will be told the date of your detention review ahead of time.

For more information, see the IRB booklet entitled *Detention Review Hearings*. Or, visit the IRB Web site at www.irb-cisr.gc.ca.

Who can help you with your case?

Immigration admissibility hearings are a serious matter. You may wish to hire a lawyer or a professional immigration consultant to help you. If you are in Quebec, you may also hire a notary. You are responsible for paying the cost of counsel. If you cannot afford a lawyer or a notary, and if you qualify, you may be able to get free legal help, such as legal aid. You may also represent yourself if you wish. Some community or religious organizations that help immigrants and refugees may also be able to help you. Ask a CBSA officer for help in finding more information.

Counsel is someone who represents and advises a person appearing before the IRB. If you are paying your counsel, he or she must be a lawyer, a notary of the Province of Quebec or a registered immigration consultant. If you are not paying the person, you may ask a representative of a community organization, a trusted friend or a family member to represent you.