

Request to OMC - Functional Guidance Form

Formulaire de demande d'orientation fonctionnelle – Demande à la DGGOCⁱ

When complete send to/ Quand envoi complet à: OMC-GOC-Immigration@cic.gc.ca

Date : 14/09/2017

A- To be completed by the requester/À remplir par l'auteur de la demande.

Office / Bureau : LNGLS	Email Address/Adresse de courriel : terry.brown@international.gc.ca
Region/ Région International Region/ Internationale	
Context/Contexte : Inadmissibility, Removal order	
Category / Catégorie : Permanent Resident/ Résidents permanents	
Background /Recherche préliminaire : No current guidance	
Urgent Request/Demande urgente : <input type="checkbox"/>	Urgent Response Needed By/Réponse urgente nécessaire d'ici le : Select date/Choisir la date
Reason for Urgent Request/Raison pour laquelle la demande est urgente : Provide details (ie. Presentation; Litigation etc)/Fournir des détails (c.-à-d. présentation, litige, etc.)	
<p>Question</p> <p>Clarification: When a client <u>in Canada</u> is found inadmissible for misrepresentation, they are given a 5 year exclusion order.</p> <p>For the purposes of <u>permanent residence</u> when the client applies to return, do the inadmissibility and the exclusion require separate remedies? An ARC is required within the 5 year ban, but I believe it does not remove the A40 inadmissibility itself – either a TRP or and H&C finding would also be required. Or not. Please confirm which.</p> <p>This question does not seem to be answered in OP1 6.0, OP4, or OP18. (I note that nearly all of the guidance around this issue is years out of date – the change from 2 to 5 years for A40 has not been made, and the ARC chapter still details CAIPS procedures in detail.)</p>	
Supervisor / Superviseur : Manager/Supervisor name/Nom du gestionnaire ou superviseur	

B- To be completed by OMC advisors/à remplir par les conseillers de la DGGOC.

Tracking #/N° de suivi : IM-2017-869	
Division : PRPD/DEPRP	Advisor / Conseiller(ère) : Carlos Marquez
Answer approved by / Réponse approuvée par : Eric Jacques	
Consulted/Personnes consultées :	

Answer/Réponse :

That's correct - pursuant to R225(3), an Authorization to Return to Canada (ARC) must be obtained within the five-year period after the exclusion order (for misrepresentation) was enforced. However, this ARC does not remove the inadmissibility.

In your case, since the ARC is being requested for the purpose of returning to Canada as a permanent resident, a TRP is not required. Pursuant to s. 24 of the *IRPA*, a TRP allows an inadmissible person to enter Canada for a limited period of time where "justified in the circumstances", and it confers temporary resident status in Canada during its validity.

To remove or overcome the inadmissibility, an H&C assessment in the PR application is required. The officer should determine whether the H&C considerations of the case are sufficient to warrant a waiver of the inadmissibility.

Status/État :

Closed/Fermé

Instructions to be updated/Instructions à mettre à jour

ⁱ Please do not paste reference emails into the body of this form. You may attach emails or additional documentation to your query email.
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