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## REPORT FROM DELHI

2019-01-30

### C41/C42 Trend Report and risk analysis

#### Summary

- LMIA-exempt C41 and C42 applications now represent over half of the work permit caseload.
- Over the last six months, revised metrics indicate that approximately 15% of work permit applications resulted in interviews, and up to 26% of C42 were interviewed.
- Concerns revolve around the authenticity of the relationship between the applicant and the spouse,
- 
- A seven-fold imbalance in gender of C42 applicants has emerged over the past 2 years.
- 10% of C42 interviews in 2018 resulted in positive misrepresentation findings, which were all due to fraudulent relationship between the student and the applicant.

#### Context

1. In 2018, the New Delhi visa office received a total of **15,743** work permit applications<sup>1</sup>. This represented an increase of 71% compared to the 2017 intake (9,191). Over half of those applications (52.4%) were composed of LMIA-exempt work permit C41 and C42. This also represented a substantial increase over 2017, as those applications only represented 36.8% of all WP applications back then. Considering the same parameters, 2017 also marked an increase in terms of WP applications and proportion of C41/42 (37%) over 2016 (33%).

Given the substantial increase of both WP applications and the proportion of C41/C42 amongst them, notwithstanding the constant growth of study permit applications, it is likely to expect that this trend will continue in 2019 as well. Even if the proportion of C41/C42 compared to other applications was to remain constant, it should be noted that an intake growth of around 88% is forecasted for Work Permits in 2019. Such a sharp overall increase is likely to lead to a similar growth in the C41/C42 caseload.

<sup>1</sup> Individual applications, VAC or eApps, for which the Delhi VO is the Primary Office and which are WP not extensions.

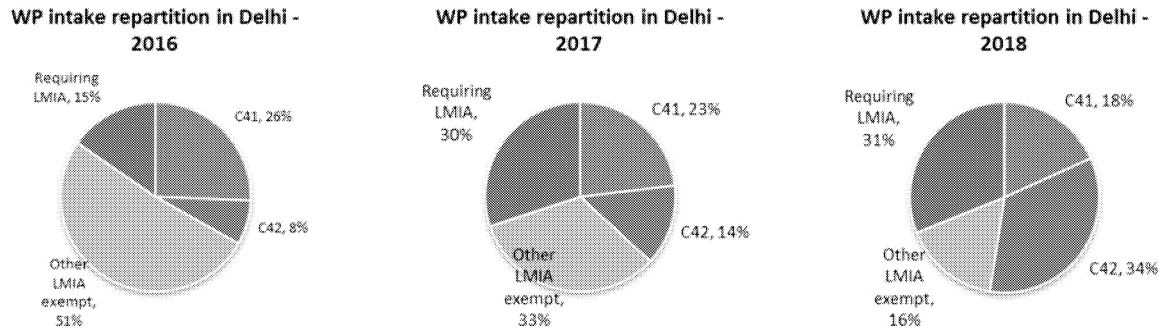


Fig.1: Repartition of the WP caseload in Delhi for 2016-2018.

**Interview rate on the rise**

2. Logically, the number of interviews conducted with regard to work permit applications has followed the same trend and increased over time. Data indicates that the increase was not just in absolute numbers, but also in percentage of applications received.

Indeed, as per GCMS and considering all work permit applications, only **1.38%** of WP applications submitted in Delhi in 2016 resulted in an interview, **8.33%** for 2017 and **9.07%** so far for 2018. For 2018, this means that a total of **1,428** interviews were conducted or scheduled throughout the year<sup>2</sup>. Considering that interviews are generally scheduled for 30 minutes, this means that the equivalent of approximately 95 full days, divided between officers, were spent interviewing work permit applicants in 2018.

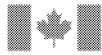
3. One possible explanation to this gradual increase over the past three years of the proportion of cases being interviewed could be that the amount of concerning cases or fraud encountered has risen. While this may very well be the case, and will be discussed in greater details when considering the issue of misrepresentation, the inaccuracy of available data must also be acknowledged. Indeed, in the past, interviews in Delhi were not always systematically recorded through an interview “Event” in GCMS, meaning that such cases cannot be identified afterwards. SWU procedures have now been amended and these events are now created more systematically since the second half of the year.

4. This improved accuracy in data entry is likely responsible for a substantial surge in interviews reported in GCMS, starting with applications received in August 2018. Indeed, since late summer 2018, the reported rate of interviews has roughly tripled, going from around 5-6% to **15-17%**. More concretely, in September, a total of 187 WP applications were sent for interviews (17% of the intake), and in October this number rose to a record of 212 (15% of the intake), with over half of those being for C41/C42 applications<sup>3</sup>.

In the past few months, between approximately **15% to 25%** of C42 applications submitted have led to interviews (the figures are much lower and way below average for C41), thereby representing a challenging increase for processing officers. The record was in September, with 98 interviews scheduled for 370 cases received, equivalent to a **26%** proportion,

<sup>2</sup> See Annex, Figure A4.

<sup>3</sup> See Annex, Figure A5.



Although, for reasons previously explained, historical data regarding interviews are not entirely reliable, it appears undeniable that a substantial increase in applications intake will proportionally lead to inflation in the number of interviews scheduled. Of particular concern is the significant rise in C42 interviews. The challenge ahead is to ensure that those interviews are strategically called and that their number remains manageable.

### **Concerns in the C41/C42 caseload**

5. The vast majority of interviews in the C41/C42 caseload were called on the basis of concerns regarding the *bona fide* of the relationship between the spouse in Canada and the applicant. Indeed, elements such as the continuous enrollment of the spouse in a DLI or the employment in a NOC 0, A or B profession can be more easily verified

This does not mean that no interviews ever take place to ascertain the enrollment of the spouse in Canada, for instance, however such cases do not constitute the majority of interviews,

6. Although applicants always provide an Indian marriage certificate, this document alone does not guarantee that the marriage had not been entered into primarily, or exclusively, for the purpose of obtaining a work permit in Canada. Additional elements relied on to determine the authenticity of a marriage include

also represent an important element in assessing the *bona fide* of a relationship. Those indicators are particularly important in the Indian context and especially revealing of the authenticity of a relationship.

### **Patterns of**

7. Focusing primarily on C42 applications, which represent the bulk of LMIA-exempt applications received in the India Network, one can clearly identify a specific, yet widespread, profile to most applications in which the relationship raises *bona fide* concerns. In the immense majority of cases,

8. While arranged marriages are the norms in Indian culture,

Although the couple often has little time to get to know each other, marriages are usually arranged following extended research and negotiations between families, taking into consideration a wide range of social criteria. In such cases however,



**This latter scenario represents the fundamental challenge that has been identified in the C42 caseload.**

10. While also existing in the C41 caseload, this particular trend is not as prevalent,

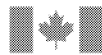
12. More concretely, scenarios such as those have been reported often in newspaper articles<sup>4</sup>. Adds for brides or grooms, a frequent staple of small local Indian newspapers, often specify an IELTS requirement and an ability to obtain a study permit abroad for one side, while the other endeavour to pay for all application-related fees.

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<sup>4</sup> *International students in fake marriage schemes to Canada*, Vancouver Sun, July 3<sup>rd</sup>, 2017, available at: <https://vancouversun.com/news/local-news/international-students-in-b-c-caught-in-fake-marriage-schemes>

*Wanted 'Wife' going to study in Canada says ads in India*, CTV News, July 14<sup>th</sup>, 2017, available at: <https://www.ctvnews.ca/canada/wanted-wife-going-to-study-in-canada-say-ads-in-india-1.3503079>

*A new troubling trend for international students coming to Canada*, Toronto Sun, December 17<sup>th</sup>, 2017, available at: <https://torontosun.com/opinion/columnists/guest-column-a-new-troubling-trend-for-international-students-coming-to-canada>



### Gender imbalance

13. Although just loosely related to the present issue, it is worth noting that a considerable gender imbalance has appeared in work permit applications. It is particularly striking to observe that in **2018, nearly three times more men (11,407) submitted work permit applications**, notwithstanding the stream, than women (4,337). Looking more closely at the C42 caseload, the ratio is particularly staggering, as only 625 women submitted an application in 2018 compared to **4,774 men, over 7 times more**. The trend goes the other way, however, when looking at C41, with 2,080 applications being women and 8,010 being men.

Year	Work Permit Type	Gender	Intake	Proportion
2018	C41	Female	2,080	13.2%
		Male	801	5.1%
	C42	Female	625	4.0%
		Male	4,774	30.3%
	Other LMIA exempt	Female	513	3.3%
		Male	2,079	13.2%
	Requiring LMIA	Female	1,119	7.1%
		Male	3,753	23.8%
<b>2018 Total</b>			<b>15,744</b>	<b>100.0%</b>

Fig. 2 2018 work permit intake by gender in 2018

Interestingly however, this appears to be a **very new trend**, as the gender ratio for C42 applicant in 2017 was only three times higher for men (940 vs. 322), and almost identical in 2016 (262 vs. 226). It is also noteworthy to observe that this emerging trend **only exists for C42 applications**, as the ratio for C41 has remained somewhat constant since 2016, with generally around 3 times more women applying than men, and same goes for other streams.

The question then becomes: what is the driver behind this trend? What has changed so that, in two years, **the C42 gender balance has suddenly moved from parity to a seven-fold imbalance** in favour of men, and why is this trend limited to C42 applications?

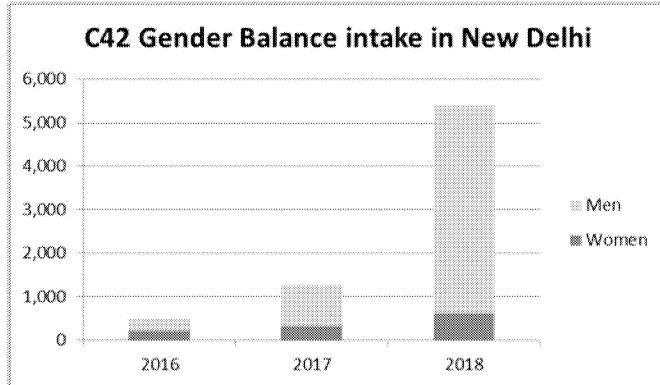


Fig 3: C42 Gender balance intake in New Delhi per year

14. A theory could be that the gender balance in C42 applicants has evolved inversely to that of study permit applicants, which might possibly have shifted in favour of women. However, this theory does not hold true, as the balance has remained relatively stable since 2016, with 38.2% of SP applicants being women in 2018, and 61.8% being men (see Annex A2).

Although yet untested, a more pragmatic explanation could be that families of young men are more likely willing to pay for the studies of a bride in order to secure a work permit for their son, in the same way that the gender balance of study permit applicants appears to indicate that more families of men are willing to pay for their studies in Canada.

It is difficult to identify with certainty the driving factors behind this considerable trend. It is certain however that it raises concerns, given its incredible progression over the past two years and in apparent complete autonomy from all other streams. This may very well indicate that there is more to it than meets the eyes, and that more in-depth scrutiny is required to better understand the rationale behind this trend.

### Determining misrepresentation

15. In situations in which the *bona fide* of the relationship is a concern, to cast some light on the situation.

Since September 2018, Delhi started pursuing misrepresentation findings under A40(1)(a) in situations where the authenticity of the relationship appears fraudulent under R4(1) or, in other words, in cases where the marriage has been entered into primarily for the purpose of acquiring a privilege under IRPA, that of working in Canada. Indeed, in both C41 and C42 applications, the existence and authenticity of the relationship is a core element of the application and is a material fact to the assessment of the open work permit application. Misrepresenting the relationship, a material fact of pivotal relevance, could induce an error in the administration of the act, thereby falling under the ambit of A40(1)(a).

16. To date, out of the 376 interviews on C42 cases submitted in 2018 (126 are still scheduled or are pending a final decision), a total of **38 misrepresentation findings** were made under A40(1)(a) and 15 have been recommended for misrepresentation. More significantly maybe, the



entirety of those 38 misrepresentation determination were made on the basis of R4(1), indicating that the applicant had misrepresented their relationship with the inviter in Canada. In other words, in 100% of those cases, the relationship was fraudulent.

WP Type	Misrepresentation	Findec	Applications	Proportion
C42	Misrepresentation	Refused	38	10.11%
	No misrep.	Approved	2	0.53%
		Refused	1	0.27%
	n/a	Approved	180	47.87%
		Refused	95	25.27%
		Withdrawn	1	0.27%
		-	29	7.71%
	Pending	-	15	3.99%
	Recommended	-	15	3.99%
	<b>C42 Total</b>			<b>376</b>

Fig. 4: Interviews completed on C42 applications submitted in 2018.

Although it must be acknowledged that this sample is small and that long term projections can hardly be derived from it, these numbers indicate that a positive misrepresentation determination was made in **over 10%** of the C42 cases that were sent for interview. A similar percentage was reached for C41 cases, however, the even much smaller sample size does not allow for a valid or adequate comparison. By comparison however, out of the 609 interviews of LMIA required applications, only 8 resulted in a positive misrepresentation finding, or 1.31%.

17. Taken on its own, this figure of 10% appears particularly impressive. It must be kept in mind, however, that cases sent for interviews are those in which strong concerns already exist, essentially due to

However, analysing this number in light of the total number of C42 applications received in 2018 is not quite as impressive, as it only shows a proportion of misrepresentation of 0.71%, with 38 determination of A40 over 5,388 applications. This proportion tumbles down to 0.14% for C41 applications. That being said, the uniformity of grounds on which applicants misrepresented is telling, and might indicate that more of those application go undetected.

Given the above, the following two questions ensue: is the issue of misrepresentation in the C42 caseload a concerning reality or a marginal occurrence? If the issue is indeed real and has only started to be unearthed, how best can it be tackled and what strategies should be put in place to deal with it? The way forward remains unclear and further clarification and guidance is required.



### The way forward

18. As was discussed, the complexity of the C42 caseload in relation to the assessment of the authenticity of the relationship is inherent to

and **the real issue is to determine which are genuine and which have been entered into for immigration purposes.** In a social environment in which arranged marriages are the norm,

19. Besides the difficulty of distinguishing real from non-genuine relationships, it remains to be clearly determined how officers, and Delhi as an office, should proceed further. While the path of interviewing applicants and **considering misrepresentation determination has currently been chosen,**

20. An element considered in Delhi in support of A40 determination was to prevent applicant from re-submitting an application immediately after a refusal, thereby artificially increasing intake, with the goal of reducing the number of applications received. The validity of this theory has yet to be tested. Indeed, from a time-based perspective, an A40 determination is incommensurably longer than a simple refusal. To the time it takes to conduct an interview and enter notes should also be added the time spent by a delegated decision maker, usually the unit's supervisor, to make a determination. Presumably, all those elements taken together would take significantly longer than refusing a few applications directly on paper.

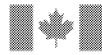
### Conclusion

21. That being said, all those elements should not overshadow the signs that a larger fraud trend is currently happening. From the substantial increase in applications intake, to the sudden explosion of the male demographic in C42 applicants, or the fact that all misrepresentation assessments were made on the very same grounds,

While the issue may exist with both C41 and C42 case load, empirical evidence and numbers clearly indicate that C42 applications represent the crux of the issue.

Barring any policy changes regarding C42 requirements and more stringent eligibility criteria, such as





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or clearer guidance on the way forward, this trend is likely to continue growing over the next few years. The alternatives are either continuing on the same course, that is, selectively pursuing A40, or processing applications on paper and simply refusing them (presumably based on the purpose of visit) when the authenticity of a relationship is not clearly demonstrated.

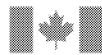
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### Annexes:

Year	Work Permit Type	Client Gender	# of Applications with Event	Intake	Proportion
2016	C41	Female	8	1,352	21.0%
		Male	8	298	4.6%
	C42	Female	2	226	3.5%
		Male	6	262	4.1%
	Other LMIA exempt	Female	1	539	8.4%
		Male	3	2,777	43.1%
	Requiring LMIA	Female	28	155	2.4%
		Male	33	837	13.0%
<b>2016 Total</b>				<b>6,446</b>	<b>100.0%</b>
2017	C41	Female	182	1,642	17.9%
		Male	67	481	5.2%
	C42	Female	22	322	3.5%
		Male	60	940	10.2%
	Other LMIA exempt	Female	13	561	6.1%
		Male	16	2,487	27.1%
	Requiring LMIA	Female	282	488	5.3%
		Male	124	2,271	24.7%
<b>2017 Total</b>				<b>9,192</b>	<b>100.0%</b>
2018	C41	Female	43	2,080	13.2%
		Male	30	801	5.1%
	C42	Female	43	625	4.0%
		Male	490	4,774	30.3%
	Other LMIA exempt	Female	7	513	3.3%



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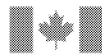
	Male	8	2,079	13.2%
Requiring LMIA	Female	596	1,119	7.1%
	Male	223	3,753	23.8%
<b>2018 Total</b>			<b>15,744</b>	<b>100.0%</b>

Fig. A1 : Work Permit applications intake per gender

Year	Client Gender	Intake	Proportion
2016	Female	22,991	35.0%
	Male	42,731	65.0%
<b>2016 Total</b>		<b>65,722</b>	<b>100.0%</b>
2017	Female	40,136	36.0%
	Male	71,415	64.0%
<b>2017 Total</b>		<b>111,551</b>	<b>100.0%</b>
2018	Female	48,798	38.2%
	Male	78,861	61.8%
<b>2018 Total</b>		<b>127,659</b>	<b>100.0%</b>

Fig. A2 : Gender Repartition of SP applicants by gender in the India Network

Year of intake	Event Outcome	WP code	Misrep Assessment	Final Assessment	# of Applications	# of Applications	
2016	Cancelled	C41	None	Approved	1	14.3%	
		<b>C41 Total</b>				<b>1</b>	<b>14.3%</b>
		LMIA	None	Approved	1	14.3%	
				Refused	4	57.1%	
				Withdrawn	1	14.3%	
	<b>LMIA Total</b>				<b>6</b>	<b>85.7%</b>	
	<b>Cancelled Total</b>					<b>7</b>	<b>100.0%</b>
	Interview	C41	None	Approved	12	15.6%	
				Refused	1	1.3%	
				<b>C41 Total</b>		<b>13</b>	<b>16.9%</b>



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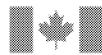
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		C42	None	Approved	6	7.8%		
				Refused	2	2.6%		
		<b>C42 Total</b>			<b>8</b>	<b>10.4%</b>		
		LMIA	No Misrep	Refused	4	5.2%		
			None	Approved	29	37.7%		
				Refused	19	24.7%		
		<b>LMIA Total</b>			<b>52</b>	<b>67.5%</b>		
		Other LMIA exempt	None	Approved	3	3.9%		
				Refused	1	1.3%		
		<b>Other LMIA exempt Total</b>			<b>4</b>	<b>5.2%</b>		
		<b>Interview Total</b>			<b>77</b>	<b>100.0%</b>		
<b>2016 Total</b>					<b>84</b>	<b>100.0%</b>		
2017	Cancelled	C41	None	Approved	1	2.9%		
					Refused	2	5.9%	
					Withdrawn	1	2.9%	
			<b>C41 Total</b>		<b>4</b>	<b>11.8%</b>		
			C42	None	Approved	2	5.9%	
					Refused	3	8.8%	
			<b>C42 Total</b>		<b>5</b>	<b>14.7%</b>		
			LMIA	Misrepresentation	Refused	8	23.5%	
					No Misrep	Refused	1	2.9%
					None	Refused	11	32.4%
					Pending		1	2.9%
			<b>LMIA Total</b>			<b>21</b>	<b>61.8%</b>	
			Other LMIA exempt	None	Refused	2	5.9%	
					Withdrawn	2	5.9%	
			<b>Other LMIA exempt Total</b>			<b>4</b>	<b>11.8%</b>	
		<b>Cancelled Total</b>			<b>34</b>	<b>100.0%</b>		
	Interview	C41	No Misrep	Approved	1	0.1%		
					None	Approved	175	24.9%
					Refused	54	7.7%	
					Withdrawn	1	0.1%	
			<b>C41 Total</b>		<b>231</b>	<b>32.8%</b>		
			C42	None	Approved	45	6.4%	
		Refused			30	4.3%		
		<b>C42 Total</b>		<b>75</b>	<b>10.7%</b>			
		LMIA	Misrepresentation	Refused	7	1.0%		



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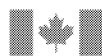
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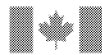
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			No Misrep	Approved	1	0.1%		
				Refused	4	0.6%		
			None	Approved	129	18.3%		
				Refused	232	33.0%		
					1	0.1%		
			Pending		1	0.1%		
		<b>LMIA Total</b>			<b>375</b>	<b>53.3%</b>		
		Other LMIA exempt	No Misrep	Approved	1	0.1%		
			None	Approved	13	1.8%		
				Refused	9	1.3%		
		<b>Other LMIA exempt Total</b>			<b>23</b>	<b>3.3%</b>		
	<b>Interview Total</b>				<b>704</b>	<b>100.0%</b>		
	Scheduled	C41	None	Withdrawn	2	66.7%		
		<b>C41 Total</b>			<b>2</b>	<b>66.7%</b>		
		Other LMIA exempt	None	Withdrawn	1	33.3%		
		<b>Other LMIA exempt Total</b>			<b>1</b>	<b>33.3%</b>		
	<b>Scheduled Total</b>				<b>3</b>	<b>100.0%</b>		
<b>2017 Total</b>					<b>735</b>	<b>100.0%</b>		
2018	Cancelled	C41	Misrepresentation	Refused	1	1.3%		
				None	Approved	4	5.2%	
					Refused	7	9.1%	
			<b>C41 Total</b>			<b>12</b>	<b>15.6%</b>	
			C42	None	Approved	8	10.4%	
					Refused	13	16.9%	
						3	3.9%	
			<b>C42 Total</b>			<b>24</b>	<b>31.2%</b>	
			LMIA	No Misrep	Refused	1	1.3%	
					None	Approved	7	9.1%
						Refused	19	24.7%
						11	14.3%	
			<b>LMIA Total</b>			<b>38</b>	<b>49.4%</b>	
			Other LMIA exempt	None	Refused	1	1.3%	
						2	2.6%	
		<b>Other LMIA exempt Total</b>			<b>3</b>	<b>3.9%</b>		
	<b>Cancelled Total</b>				<b>77</b>	<b>100.0%</b>		
	Interview	C41	Misrepresentation	Refused	3	0.3%		
					None	Approved	20	1.9%



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			Refused	6	0.6%	
				8	0.8%	
		Pending		1	0.1%	
		<b>C41 Total</b>		<b>38</b>	<b>3.7%</b>	
	C42	Misrepresentation	Refused	38	10.11%	
		No Misrep	Approved	2	0.53%	
			Refused	1	0.27%	
		None	Approved	180	47.87%	
			Refused	95	25.27%	
			Withdrawn	1	0.27%	
					29	7.71%
			Pending		15	3.99%
		Recommended		15	3.99%	
		<b>C42 Total</b>		<b>376</b>	<b>100.00%</b>	
	LMIA	Misrepresentation	Refused	8	0.8%	
		No Misrep	Refused	3	0.3%	
		None	Approved	103	10.0%	
			Refused	469	45.4%	
				19	1.8%	
			Pending	6	0.6%	
			Recommended	1	0.1%	
		<b>LMIA Total</b>		<b>609</b>	<b>59.0%</b>	
	Other LMIA exempt	Misrepresentation	Refused	1	0.1%	
		None	Approved	2	0.2%	
			Refused	3	0.3%	
				3	0.3%	
		<b>Other LMIA exempt Total</b>		<b>9</b>	<b>0.9%</b>	
	<b>Interview Total</b>			<b>1,032</b>	<b>100.0%</b>	
Not Started	C42	None		5	35.7%	
	<b>C42 Total</b>			<b>5</b>	<b>35.7%</b>	
	LMIA	None		9	64.3%	
	<b>LMIA Total</b>			<b>9</b>	<b>64.3%</b>	
	<b>Not Started Total</b>			<b>14</b>	<b>100.0%</b>	
Scheduled	C41	None		22	7.0%	
	<b>C41 Total</b>			<b>22</b>	<b>7.0%</b>	
	C42	None		125	39.9%	
		Pending		1	0.3%	



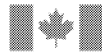
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		<b>C42 Total</b>		<b>126</b>	<b>40.3%</b>
		LMIA	None	1	0.3%
			Withdrawn	158	50.5%
			Pending	2	0.6%
			Recommended	1	0.3%
		<b>LMIA Total</b>		<b>162</b>	<b>51.8%</b>
		Other LMIA exempt	None	3	1.0%
		<b>Other LMIA exempt Total</b>		<b>3</b>	<b>1.0%</b>
		<b>Scheduled Total</b>		<b>313</b>	<b>100.0%</b>
<b>2018 Total</b>				<b>1,415</b>	<b>100.0%</b>
<b>Grand Total</b>				<b>2,234</b>	<b>100.0%</b>

Fig. A3: Interviews, misrepresentation activities and final decisions per year of intake.

Year	Work Permit Type	Intake	# of Applications with Event	Proportion
2016	C41	1,650	16	0.97%
	C42	488	8	1.64%
	Other LMIA exempt	3,316	4	0.12%
	Requiring LMIA	992	61	6.15%
<b>2016 Total</b>		<b>6,446</b>	<b>89</b>	<b>1.38%</b>
2017	C41	2,123	249	11.73%
	C42	1,262	82	6.50%
	Other LMIA exempt	3,048	29	0.95%
	Requiring LMIA	2,758	406	14.72%
<b>2017 Total</b>		<b>9,191</b>	<b>766</b>	<b>8.33%</b>
2018	C41	2,873	72	2.51%
	C42	5,388	525	9.74%
	Other LMIA exempt	2,591	15	0.58%
	Requiring LMIA	4,891	816	16.68%
<b>2018 Total</b>		<b>15,743</b>	<b>1428</b>	<b>9.07%</b>

Fig. A4: Interviews scheduled for work permit compared to applications intake per year



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Year	Month	Intake	# of Applications with Event	Proportion
2018	2018 / 01	1,007	63	6.4%
	2018 / 02	1,005	52	6.4%
	2018 / 03	1,398	79	8.9%
	2018 / 04	1,210	75	7.7%
	2018 / 05	1,398	91	8.9%
	2018 / 06	1,449	120	9.2%
	2018 / 07	1,481	109	9.4%
	2018 / 08	1,300	131	8.3%
	2018 / 09	1,098	187	7.0%
	2018 / 10	1,376	212	8.7%
	2018 / 11	1,410	186	9.0%
	2018 / 12	1,611	123	10.2%
<b>2018 Total</b>		<b>15,743</b>	<b>1,428</b>	<b>100.0%</b>

Fig. A5: Interviews scheduled for work permit compared to applications intake per month in 2018