

Litigation Management

March 2023

From a Division to a Branch in 2021

- Litigation Management has been a fixture at IRCC since the mid-1990s. It used to be a Division within the Case Management Branch (Operations) until it became a Branch in August 2021 reporting directly to the ADM Operations.
- The creation of the Branch flowed from the following needs:
 - Build on LMD's successes and expertise to better position for the future to face the growth in volume and complexity of the litigation.
 - Set up clearer accountabilities, roles and responsibilities between Legal Services (DoJ) and LMB (IRCC).
 - Establish stronger and broader linkages to all branches and mitigate litigation risk.
 - Build capacity to do litigation trend analysis, reporting and monitoring.
 - Provide greater strategic oversight and strategic guidance directly to senior management on litigation matters.
 - Bolster training delivery to decision-makers leading to better informed officers making legally defensible decisions.
- The Branch is led by one EX-02 and two EX-01s and is comprised of 109 FTEs (mostly PM-05s). In addition, 20 positions are currently being staffed.

Roles and Responsibilities in managing litigation

- LMB's main role and responsibility is to **manage litigation**, but also **provides guidance and mitigates risks; responds to domestic and international tribunals, coordinates different court related requests; and provides training, reporting and monitors litigation trends.**

Identify risk and manage litigation

Types of litigation:

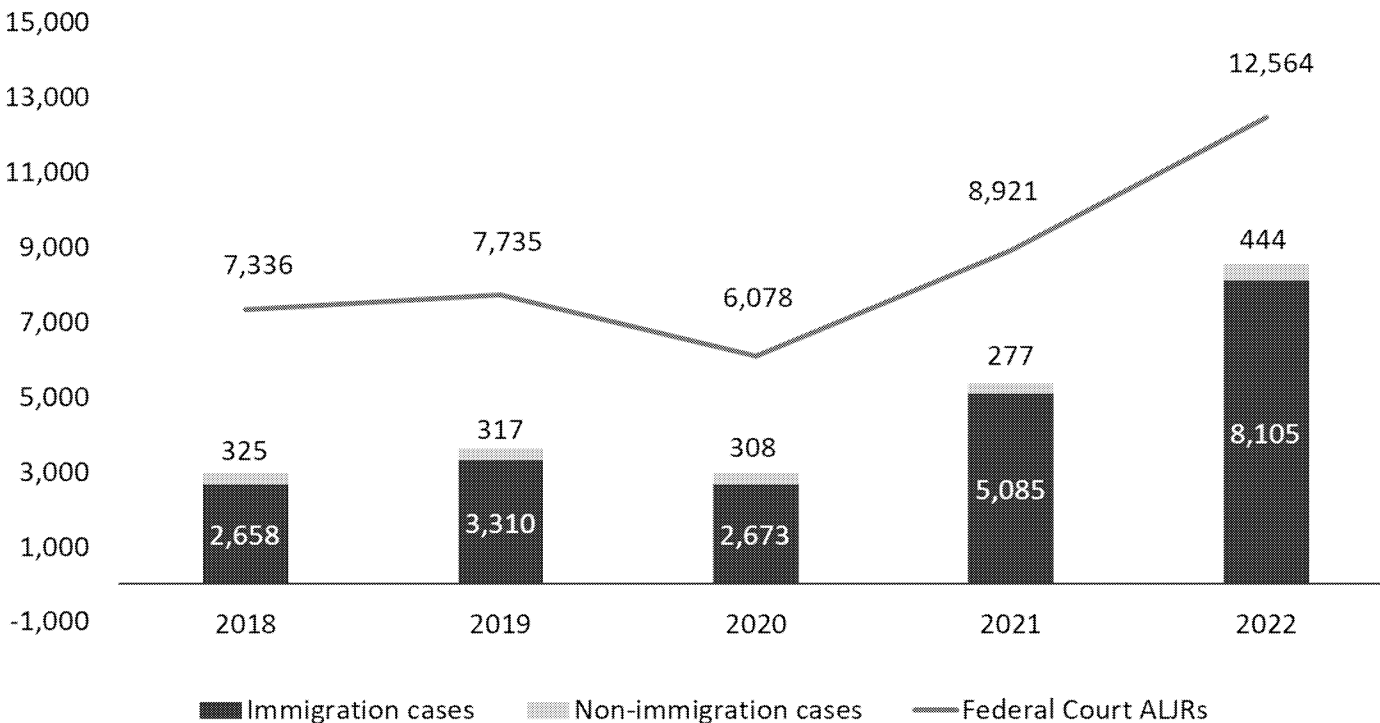
- Applications to the Federal Court, the Federal Court of Appeal and the Supreme Court of Canada
- Civil Suits
- Complaints to the Canadian Human Rights Commission (CHRC)
- Complaints to international tribunals (e.g. UNCAT)
- Provincial Courts

What we do:

- Act as the instructing client on behalf of IRCC and is the liaison between IRCC and DOJ litigators.
- Identify the types of litigation cases that are referred to IRCC, as per agreement with DOJ, to ensure consistent and strategic case management.
- Lead on the development, management and implementation of litigation strategies in collaboration with internal and external partners.
- Work with DOJ to ensure consistency in the Minister's position before multiple tribunals.

Application for Leave and Judicial Review (ALJR) involving IRCC

ALJRs filed at the Federal Court vs. Number of Cases Referred to LMB
January 1, 2018 to December 31, 2022



There was a 70% increase of ALJRs received at the Federal Court between 2018 to 2022.

For the same period, there was a significant increase (187%) in ALJR cases referred to LMB.

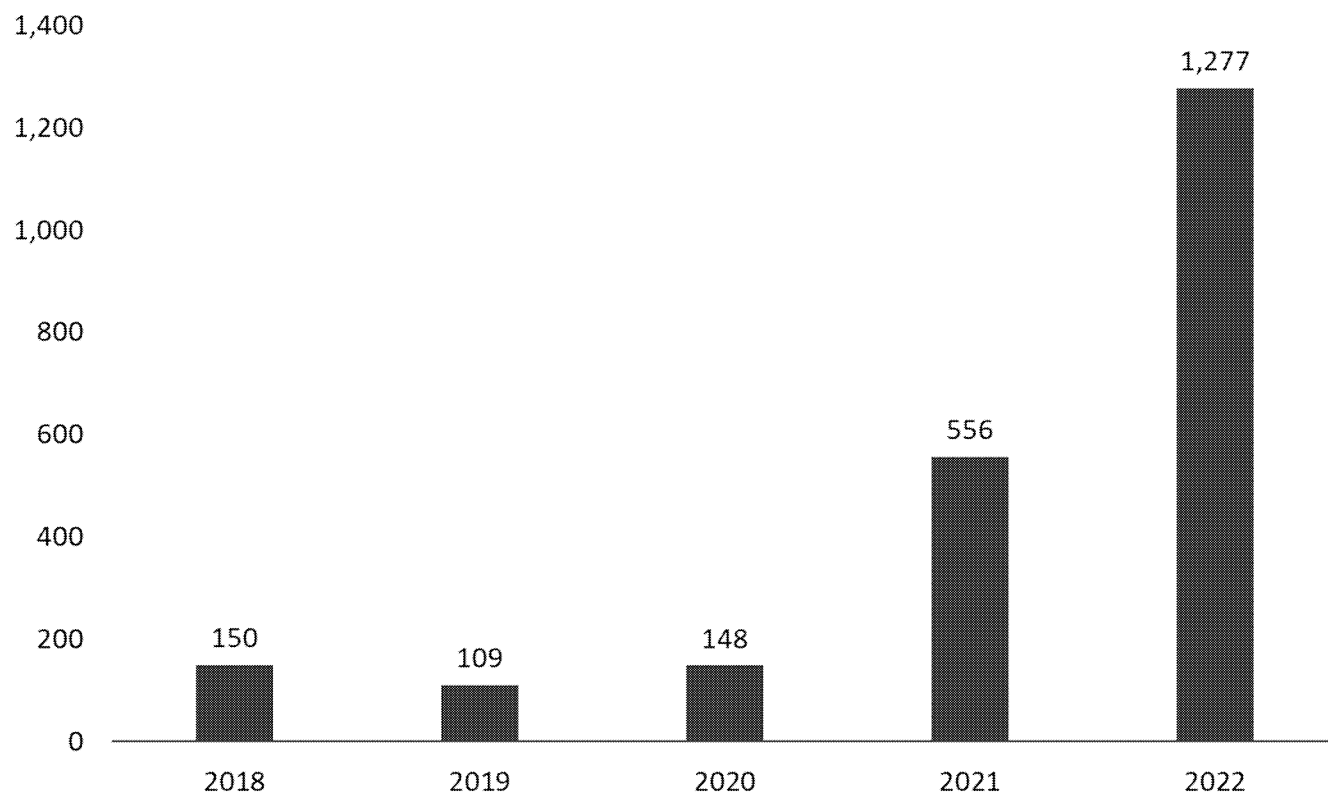
In 2022, IRCC represented 79% of overall Federal Court cases, which represents an average of **56 new litigation files every working day**.

For comparison, CRA received 1,448 ALJRs; CBSA - 1,282; ESDC 114; and Correctional Services, 74. Others received fewer ALJRs in all of 2022 than IRCC sees in a single day.

Note that this data has been extracted on February 21, 2023 and datasets may vary from different data extraction.

Mandamus – impact of inventories

Total Mandamus for cases referred to LMB
January 1, 2018 to December 30, 2022



Since 2018, there has been a significant increase of 751% in Mandamus cases.

Throughout the years, the PR LoB received the majority of Mandamus. However, the TR LoB has seen a significant increase, from 12 cases in 2018 to 374 cases in 2022.

The increase can be attributed to longer processing times and increased inventories resulting from border restrictions, office closures, and other pandemic related factors.

Prioritizing easier cases to meet Levels pressures has also contributed, as more complex cases were set aside. We will continue to see high mandamus levels until these older, more complex cases are cleared.

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