



Immigration, Refugees  
and Citizenship Canada

Immigration, Réfugiés  
et Citoyenneté Canada

Deputy Minister

Sous-ministre

Ottawa K1A 1L1

F-1311910

PROTECTED B

## MEMORANDUM TO THE MINISTER

### DESIGNATED REGIMES AND CBSA REVIEW PLAN 2024-2027

#### FOR INFORMATION

##### SUMMARY

- The purpose of this memorandum is to provide you with information on the designated regimes inadmissibility provision under paragraph 35(1)(b) of the *Immigration and Refugee Protection Act* (IRPA) and on the Canada Border Services Agency's (CBSA) .
  - The Minister of Public Safety has the authority under the IRPA to designate a regime as engaging in (or having engaged in) terrorism, systematic or gross human rights violations, genocide, war crimes, or crimes against humanity. Once designated, senior officials in service of that regime become inadmissible to Canada.
  - On November 13, 2022 this authority was exercised for the first time in 20 years when the Islamic Republic of Iran was designated. Prior to this, only nine other regimes had been designated (see Annex B for a full list).
- . Immigration, Refugees and Citizenship Canada (IRCC) is supportive of this plan.
- IRCC's role in the designation process is to identify immigration implications ahead of a designation, identify and address overseas inadmissibility cases post-designation, and develop guidance and resources to support immigration officers.

N/R

**BACKGROUND:**

- Under paragraph 35(1)(b) of IRPA, the Minister of Public Safety has the authority to designate regimes if he is of the opinion that the regime engages or has engaged in terrorism, systematic or gross human rights violations, genocide, war crimes, or crimes against humanity as defined in the *Crimes Against Humanity and War Crimes Act*. Upon designation, any foreign nationals and permanent residents who are or were prescribed senior officials of the specified regimes are inadmissible to Canada.
- Along with sanctions inadmissibility, this is one of Canada's most powerful tools to deny entry. It does not require an individualized assessment of an individual's behavior, complicity or risk posed to Canada, only an assessment of whether the individual is a "senior official". Unlike sanctions, this inadmissibility is considered "permanent" and is therefore not employed often.
- The *Immigration and Refugee Protection Regulations* (IRPR) prescribes who is a "senior official" for the purpose of the inadmissibility ground. The term "senior official" is defined as a person who, by virtue of the position they hold or held, is or was able to exert significant influence on the exercise of government power, or, is or was able to benefit from their position, and includes heads of state, members of the Cabinet, ambassadors, senior diplomats, judiciary, senior military and intelligence officials, and senior public servants. Senior in this context involves the top 50% of the governmental organizations.

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- IRCC's role in the designation process is to raise immigration implications of a designation, which includes analyzing potential numbers of the diaspora or individuals applying to come to Canada that may be impacted by the designation and who may be refused a visa if determined inadmissible. IRCC would also identify visa holders that may require document cancellation following a designation.

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**CURRENT STATUS:**

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**CONSIDERATIONS:**

- Designation of a regime is a permanent decision with broad implications. Designation cannot be reversed unless there was an error in the designation decision itself, even when there is a desire to normalize bilateral relations. Senior officials of the regime are inadmissible in perpetuity, unless otherwise facilitated to enter or to remain in Canada, for example, via a public policy or a national interest temporary resident permit (as noted above, these are two facilitative tools held by IRCC). Ministerial relief from the Minister of Public Safety is also available to overcome this inadmissibility on a permanent basis (see Annex C for a list of facilitative tools).
- Inadmissibility under paragraph 35(1)(b) applies irrespective of the individual's risk to Canada, and complicity in the impugned activities of the regime is not relevant in determining the inadmissibility. Impacts of an inadmissibility finding under paragraph 35(1)(b) also include ineligibility to make a refugee claim or a Humanitarian and Compassionate application, and restricted access to a pre-removal risk assessment.

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#### COMMUNICATIONS IMPLICATIONS:

- The November 2022 designation of the Islamic Republic of Iran generated high stakeholder and media interest. Since then, IRCC has received many media calls focused on why certain senior Iranian officials have been granted entry/temporary residence in Canada.
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#### NEXT STEPS:

- IRCC will continue to work with CBSA and other departments, including GAC, in providing advice on immigration implications of a designation.

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Scott Harris  
Associate Deputy Minister

Dr. Harpreet S. Kochhar  
Deputy Minister

Annexes (4):

A:

B: List of Current Designated Regimes

C: Facilitative Tools

D:

**Pages 6 to / à 7**  
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**sont retenues en vertu des articles**

**15(1), 21(1)(a), 16(1), 21(1)(b)**

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## Annex B – List of Designated Regimes

Regime	Designated on	Extended / amended on
Bosnian-Serb regime from March 27, 1992, to October 10, 1996	June 16, 1993	August 15, 1997
Siad Barre regime in Somalia from 1969 to 1991	October 12, 1993	
Former military governments in Haiti from 1971 to 1986 and from 1991 to 1994, except for the period from August to December 1993	April 8, 1994	
Former Marxist regimes in Afghanistan from 1978 to 1992	October 21, 1994	
Governments of Ahmed Hassan Al Bakr and Saddam Hussein in power in Iraq from 1968 until May 22, 2003	September 3, 1996	September 9, 2004
Government of Rwanda under Juvénal Habyarimana from October 1990 to April 1994 as well as the interim government in power from April 1994 to July 1994	April 27, 1998	
Governments of the Federal Republic of Yugoslavia and the Republic of Serbia under Slobodan Milosevic from February 28, 1998, to October 7, 2000	June 30, 1999	March 14, 2001
Taliban regime in Afghanistan from September 27, 1996, to December 22, 2001	March 14, 2001	September 9, 2004
Government of Ethiopia under Mengistu Haile Mariam from September 12, 1974, to May 21, 1991	November 21, 2003	

Islamic Republic of Iran, from November 15, 2019, ongoing	November 13, 2022	
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## Annex C – Facilitative Tools (Options that officers and/or the Minister can employ to facilitate individuals under IRPA)

Tool*	Description
<b>Available for Inadmissibility under 35(1)(b)</b>	
<b>Public Policy</b>	<b>Minister of IRCC</b> may issue public policies to exempt any requirement of the <i>IRPA</i> .
<b>Public Policy Facilitating Entry or Stay in Canada on a Temporary Basis for Inadmissible Foreign Nationals to Advance Canada's National and International Objectives (PPTRV)</b>	Issued by <b>IRCC, delegated to ADM of Service Delivery and ADM of Migration Integrity</b> , to temporarily overcome any inadmissibility if it is in Canada's interest.
<b>Ministerial relief</b>	The <b>Minister of Public Safety</b> may grant permanent relief of inadmissibility for security, certain human/international rights violations and organized criminality if not contrary to the national interest. However, may not overcome inadmissibility for complicity in war crimes/crimes against humanity under paragraph 35(1)(a), organ trafficking under 35(1)(c.1), sanctions under 35.1, or those grounds under IRCC authority.
<b>Allowed to Withdraw</b>	<b>CBSA officers at the port of entry</b> may allow voluntary withdrawal of a person's application to enter Canada rather than pursuing a removal order.

<b>National Interest Temporary Resident Permit</b>	The NITRP authorizes an <b>officer of IRCC, delegated to the ADM and SADM of Operations</b> , to issue a temporary resident permit authorizing the person's temporary resident status where the officer is of the opinion that doing so is justified under the circumstances, notwithstanding the grounds of inadmissibility under A34, A35, A35.1 and A37.
<b>Unavailable for Inadmissibility under 35(1)(b)</b>	
<b>Humanitarian and Compassionate</b>	The <b>Minister of IRCC or delegated IRCC official</b> may grant permanent resident status or an exemption for any criteria in the IRPA, except for inadmissibility grounds where the Public Safety Minister has authority (A34, A35, A35.1, A37).
<b>Criminal Rehabilitation</b>	Individuals can apply to <b>IRCC officials, or CBSA officials at a port of entry</b> , for rehabilitation if at least five years have passed since their sentence ended. The regulations also provide for 'deemed rehabilitation' in certain cases (e.g., a single instance of minor criminality at least 10 years ago).
<b>Temporary Resident Permit</b>	<b>An IRCC officer, or a CBSA officers at a port of entry</b> , may issue a Temporary Resident Permit to authorize anyone who is inadmissible, or does not meet the requirements of the <i>IRPA</i> or <i>IRPR</i> , when it is justified in the circumstances. They can also be issued under humanitarian and compassionate grounds and to victims of human trafficking.
<b>Restoration of Status</b>	Meant to address minor non-compliance. <b>IRCC officials</b> must restore status of visitors, workers and students for prescribed reasons and circumstances where an application is made within 90 days of loss of status.

\*In addition to facilitative tools under the Immigration and Refugee Protection Act, the Foreign Missions and International Organizations Act (FMIOA) implements Canada's obligations under the Vienna Convention on Diplomatic Relations and extends certain privileges and immunities to accredited foreign representatives in Canada. When a regime is designated pursuant to para. 35(1)(b) of the IRPA, the inadmissibility does not apply to any accredited foreign representatives in Canada. Any accredited foreign representatives in Canada captured by the designation could not be referred to the Immigration Division of Immigration and Refugee Board for an admissibility hearing, nor removed from Canada, given their immunity to the exercise of administrative jurisdiction under the FMIOA. Unless and until Global Affairs revokes such persons' status as accredited foreign representatives, the 35(1)(b) IRPA designation could not result in an admissibility hearing or removal.

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