

LIST OF QUESTIONS CERTIFIED UNDER THE FORMER *IMMIGRATION ACT*

This list contains questions certified under the former *Immigration Act*, R.S.C., 1985, c. I-2, and will not be updated.

Please note that this list is not necessarily exhaustive. Questions that were certified in Orders and that do not appear in Reasons for Order may not appear on this list.

If you have any questions, please contact us at media-fct@fct-cf.gc.ca .

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6881-93 Reed J. July 21, 1994	A-384-94 Strayer J.A. (reasons) Décary J.A. Linden J.A. December 30, 1998	<div>1. Whether it is possible for a non-Canadian aboriginal person to establish, with adequate proof, aboriginal rights to enter and to remain in Canada that survived the acquisition or assertion of sovereignty by the British Crown and, if so, whether these rights have been extinguished or limited by statute, at the latest, with the enactment of sections 4 and 5 of the Immigration Act, 1976, S.C. 1976 - 77, c. 52.</div> <div>2. Whether an adjudicator has jurisdiction to determine if a person who is the subject of an inquiry is a member of the aboriginal peoples of Canada within the meaning of subsection 35(1) of the <i>Constitution Act, 1982</i>, whether an alleged right is an existing aboriginal or treaty right of the aboriginal peoples of Canada within the meaning of subsection 35(1) and whether sections 4 and 5 of the <i>Immigration Act</i> infringe subsection 35(1).</div>	<div>See reasons of F.C.A.</div> <div>Yes</div>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-654-93 Rothstein J. December 15, 1994	A-721-94 MacGuigan J.A. (reasons) Robertson J.A. McDonald J.A. June 10, 1997	Is indirect persecution as described in <i>Bhatti v. The Secretary of State</i> , A-89-93, September 14, 1994 (F.C.T.D.) (not yet reported) a basis for a claim to Convention refugee status where there is no evidence of direct persecution against an applicant and if so, is the Convention Refugee Determination Division required to assess whether there is evidence of indirect persecution when an applicant does not raise the issue before it.	No
IMM-3433-94	A-372-95 C.J. Linden J.A. Sexton J.A. June 24, 1997	Whether the adjudicator erred in finding on the basis of the evidence before him that he had reasonable grounds to believe that the applicant had committed outside Canada certain acts or omissions which constituted offenses under the laws of Pakistan within the meaning of subparagraph 19(1)(c.1)(ii) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2, as amended.	No
IMM-166-95 Simpson J. Oct. 23, 1995	A-713-95 Stone J.A. (reasons) Linden J.A. McDonald J.A. March 4, 1997	Does the Federal Court Trial Division have jurisdiction to direct the Convention Refugee Determination Division to declare an applicant to be a Convention refugee pursuant to s. 18.1(3)(b) of the <i>Federal Court Act</i> ?	Yes
IMM-2585-95 Dubé J. Feb. 7/96	A-179-96 Marceau J.A. (reasons) Desjardins J.A. McDonald J.A. February 11, 1997	When an appeal is made by a sponsor to the Immigration Appeal Division ("IAD") prior to July 10, 1995, with respect to a sponsoree who is inadmissible pursuant to s. 19(1)(<u>c</u>), (<u>c.1</u>), (<u>c.2</u>) or (<u>d</u>) of the <u>Immigration Act</u> , and the hearing before the IAD has commenced after July 10, 1995, does the effect of the Minister issuing a “danger to the public” opinion extinguish the sponsor’s right of appeal to s. 77(3.01) of the Act and s. 15(3) of Bill C-44 and thereby terminate the jurisdiction of the IAD with respect to the appeal?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2008-95 A.C.J. September 27, 1996	A-782-96 Stone J.A. (reasons) Robertson J.A. McDonald J.A. May 27, 1997	<p>1. Was a person “lawfully admitted” to Canada pursuant to the provisions of the <i>Immigration Act</i>, (1950), R.S.C. 1952, c. 145, where that person,</p> <p>(a) was a member of a prohibited class at the time he entered Canada, or</p> <p>(b) was granted entry as a result of fraud or deception?</p> <p>2. If a person was not “lawfully admitted” to Canada could he acquire “domicile” within the meaning of that term in the <i>Immigration Act</i>, (1952) R.S.C. 1952, c.325?</p> <p>3. Did s.19(1)(e)(iv) and (viii) of the <i>Immigration Act</i>, (1952), R.S.C. 1952, c. 325, operate so as to protect from removal a person who</p> <p>(a) was a member of a prohibited class at the time of his admission to Canada, or</p> <p>(b) came to Canada or remains therein with a false or improperly issued passport, visa, medical certificate or other document pertaining to his admission or by reason of any false or misleading information, force, stealth or other fraudulent or improper means, whether exercised or given by himself or by any other person, where that person was not “lawfully admitted” to Canada, and the person has resided in Canada for over five years, from the date of his entry into Canada prior to April 10, 1973?</p>	See reasons of F.C.A. issued May 27, 1997
IMM-550-96 Heald J. Oct. 1/96	A-791-96 Strayer J.A. (reasons) Linden J.A. Robertson J.A. March 1, 1999	Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah v. Minister of Employment and Immigration</i> (1994), 170 N.R. 238., when he or she considers documentary evidence about general country conditions not contained in the applicant’s immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same?	See <i>Nadarajah</i> A-434-96 and <i>Mancia</i> A-75-97

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-3320-95 Reed J. Oct. 29/96	A-855-96 Strayer J.A. (reasons) Robertson J.A. McDonald J.A. April 11, 1997	<p>1. Does subsection 70(5) of the <i>Immigration Act</i>, R.S.C. 1985, c. I-12 engage interests effecting liberty and/or security of the person pursuant to section 7 of the <i>Charter of Rights and Freedoms</i>?</p> <p>2. If yes, is subsection 70(5) inconsistent with the requirements of fundamental justice and of no force or effect as it is unconstitutionally vague and/or does not provide for the rendering of reasons for a determination that a person constitutes a danger to the public in Canada?</p> <p>3. Is the exercise of discretion by the Minister of Citizenship and Immigration to issue an opinion that a person constitutes a danger to the public in Canada pursuant to subsection 70(5), in the context of the procedure being used for that determination, inconsistent with the requirements of fundamental justice and section 7 of the <i>Charter</i> where no reasons are provided for the opinion.</p> <p>4. Does the failure to provide reasons for a determination under subsection 70(5) that a person constitutes a danger to the public in Canada, in the context of the procedure being used, breach the requirements of natural justice or procedural fairness?</p>	<p>1. No</p> <p>2. No</p> <p>3. No</p> <p>4. No</p>
IMM-2721-95 Heald J. Dec. 16/96		<p>Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah v. Minister of Employment and Immigration</i> (1994), 170 N.R. 238., when he or she considers documentary evidence about general country conditions not contained in the applicant's immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same?</p> <p><u>note: question certified in IMM-550-96</u></p>	see IMM-550-96 on p.3
IMM-3294-95 Muldoon J.	A-1038-96 C.J.	Can the Appeal Division of the IRB, in the exercise of its jurisdiction to have “regard to all the circumstances of the case”, under the <i>Immigration Act's</i> paragraph 70(1)(b), consider the country (and its conditions) to which the non-	see reasons

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Dec. 18/96	Strayer J.A. Linden J.A.(reasons) December 3, 1998	refugee appellant would, on the balance of probabilities, be removed when assessing whether “the person should not be removed from Canada”; or not, in accordance with the decision of Mr. Justice MacGuigan in a refugee case, <i>Hoang v. Minister of Employment and Immigration</i> , (1990) 120 N.R. 193 at 195; 13 Imm.L.R. (2d) 35 (F.C/A) quoted above herein?	issued Dec. 3/98
IMM-3377-95 Gibson J. Dec. 18/96	A-60-97	Where a visa officer is considering an application for landing in Canada that includes an individual claiming to be the “dependant son” or “dependant daughter” of the principal applicant on the basis that he or she is enrolled in and in attendance as a full-time student in an academic, professional or vocational program at a university, college or other educational institution and has been continuously enrolled and in attendance in such a program, is it open to the visa officer to determine that the individual, while continuously enrolled as a full-time student in an appropriate educational program and institution, has not been “in attendance” at that program and at that institution on the basis of the individual’s inability to describe or discuss what has been taught in various courses in which the individual has been enrolled?	Applicant requested not to pursue matter.
IMM-1136-96 Wetston J. Dec. 20/96	A-1055-96 Stone J.A.(Reasons) Strayer J.A. MacGuigan J.A. September 3, 1997	In the absence of a statutory requirement to give reasons, does the failure of the Minister to give reasons, in rendering a subsection 70(5) danger opinion, violate the principles of procedural fairness and natural justice?	See reasons in <i>Williams v. Canada</i> [1997] FCJ No. 393
IMM-7485-93 McGillis J. January 17, 1997	A-47-95 MacGuigan J.A. (reasons) Marceau J.A.	Whether the adjudicator erred in finding, on the basis of the warrant for arrest and indictment from the United States of America, that he had reasonable grounds to believe that the applicant had committed outside Canada certain acts or omissions which constituted offences under the laws of the United States of America within the meaning of subparagraph 19(1)(c.1)(ii) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2 as amended.	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Desjardins J.A. October 1, 1997		
IMM-860-96 Campbell J. Jan. 22/97	A-64-97	<p>1. Does the phrase “and to any dependant for whom landing is sought in subsection 46.04(3) of the <i>Immigration Act</i> apply only to those dependants for whom landing is sought who do not have a separate right to apply for landing independent of the Applicant?</p> <p>2. Can an immigration officer refuse a Convention refugee’s application for landing pursuant to s. 46.04(1) where a dependant (sic) for whom landing has been sought (by the Applicant) is inadmissible to Canada by reason of being described in an inadmissible class referred to in s. 46.04(3), where that dependant, as a Convention refugee has an independent entitlement under s. 46.04(1), to apply for landing and has concurrently done so?</p>	Discontinued
IMM-1458-96 Dubé J. Jan. 23/97	A-67-97 Robertson J.A. (Reasons) Denault J.A. Linden J.A. September 11, 1998	Under s. 70(5)(c) of the <i>Immigration Act</i> , must an adjudicator specifically find that a person described in paragraph 27(1)(d) is also a person who has been convicted of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed, before s. 70(5)(c) will be effective to remove the Applicant’s appeal to the Immigration Appeal Division, or can this finding be made by the Immigration Appeal Division in the course of determining whether it has jurisdiction to proceed with the appeal?	See reasons dated Sept. 11/98
IMM-714-96 MacKay J. Jan. 31/97	A-75-97 Stone J.A. Décary J.A. (reasons) Robertson J.A. May 1, 1998	Does an immigration officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness, as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she fails to disclose, in advance of determining the matter, documents relied upon from public sources in relation to general country conditions?	See reasons dated May 1/98

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2143-96 Dubé J. Feb. 12, 1997	A-154-97	Is the assessment of an application for landing limited to the specific legislative provision expressly stated when the application is submitted, or does an immigration officer breach the rules of fairness, when considering the application for landing, in failing to consider the applicability of other legislative provisions which are brought to the officer's attention prior to rendering a decision on the application?	Discontinued
IMM-938-96 Campbell J. Feb. 28/97	A-231-97 C.J. Létourneau J.A. Sexton J.A. February 5, 1999	Where a refugee claimant has taken action because of his religious or political beliefs and is in turn attacked and threatened because of that action but not necessarily because of the religious or political beliefs behind that action, does this amount to persecution "by reason of" religion or political opinion and fall within the definition of a convention refugee in s. 2 of the <i>Immigration Act</i> ?	Dismissed for delay
IMM-2292-96 Gibson J. March 18, 1997	A-247-97 Linden J.A. (reasons) Stone J.A. Robertson J.A. June 24, 1997	Must an application for judicial review under the <i>Federal Court Act</i> of a decision of the Immigration Appeal Division of the Immigration and Refugee Board, on a matter arising under section 77 of the <i>Immigration Act</i> with respect to an application to a visa officer, be commenced only with leave of a judge of the Federal Court - Trial Division	Yes
IMM-1505-96 McKeown J. April 17, 1997	A-344-97 Létourneau J.A. Rothstein J.A. (reasons) McDonald J.A. June 24, 1999	Does the identified continuing need for personalized special education constitute a "social service" within the meaning of subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> ?	Yes
IMM-3886-96 McKeown J. May 2, 1997		By virtue of Israel's Law of Return should Israel be considered as a country of reference for all Jewish refugee claimants who apply in Canada for Convention refugee status?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-1264-96 Dubé J. June 6, 1997	A-461-97 Strayer J.A. Linden J.A. Isaac J.A. October 29, 1999	Does the IAD have jurisdiction under subsection 70(1) to entertain the appeal of a person who was landed in reliance of a fraudulent misrepresentation made by that person? In particular, has a person who has been landed on the basis of a fraudulent misrepresentation been given “lawful permission to establish herself within Canada” so as to be a “permanent resident” who can appeal under subsection 70(1) of the <i>Immigration Act</i> ? Does the IAD have jurisdiction under subsection 70(1) to entertain the appeal of a person, whether or not the report on that person was made under paragraph 27(1)(e) or paragraph 27 (2)(g) of the Act?	Yes (on consent)
IMM-2658-96 Gibson J. June 6, 1997		<p>1. Where an individual applies to a Canadian embassy for a determination that he or she is a Convention refugee, within the meaning of the <i>Immigration Act</i>, seeking resettlement in Canada, does the <i>Immigration Act</i>, and more specifically sections 44, 46.02 and 67 of the Act confer sole and exclusive jurisdiction on the Convention Refugee Determination Division of the Immigration and Refugee Board to hear and determine the individual’s claim?</p> <p>2. If the answer to question 1 is “no”, were the applicants in this matter accorded the requisite degree of natural justice and procedural fairness in the determination of their claims to Convention refugee status?</p>	No appeal filed
IMM-2659-96 Gibson J. June 6, 1997		<p>1. Where an individual applies to a Canadian embassy for a determination that he or she is a Convention refugee, within the meaning of the <i>Immigration Act</i>, seeking resettlement in Canada, does the <i>Immigration Act</i>, and more specifically sections 44, 46.02 and 67 of the Act confer sole and exclusive jurisdiction on the Convention Refugee Determination Division of the Immigration and Refugee Board to hear and determine the individual’s claim?</p> <p>2. If the answer to question 1 is “no”, was the applicant in this matter accorded the requisite degree of natural justice and procedural fairness in the determination of his claim to Convention refugee status?</p>	No appeal filed
IMM-3413-96 Cullen J. July 14, 1997		Does the Refugee Division have an obligation in law to consider the application of Section 2(3) of the <i>Immigration Act</i> if the issue is not raised at the hearing by the parties to the hearing or by the Refugee Division? If so, what is the nature and extent of the obligation?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-3235-96 Gibson J. July 17, 1997	A-533-97 Létourneau J.A. (reasons) Rothstein J.A. McDonald J.A. June 23, 1999	Did the applicant who expressed a long term goal to study in Canada satisfy the definition of “visitor” as defined in s. 2 (1) of the <i>Immigration Act</i> ?	C.A. declined to answer the certified question as it did not meet the requirements of s. 83(1) of the <i>Act</i> . The reasons should, however, be read as the Court of Appeal states what the question should be and its response.
IMM-3655-96 Gibson J. July 17, 1997	A-578-97 Strayer J.A. Rothstein J.A. Sexton J.A. November 30, 2000	Does the immigration officer processing an application made pursuant to the DROC regulations have the discretion to extend the time for filing the application, either pursuant to the principles of natural justice or fundamental justice, if an applicant files an application after the 120 day period prescribed by the regulations in reliance on erroneous advice provided to the applicant through a Member of Parliament by an official in the Ministry of Citizenship of Immigration?	No
IMM-705-96 Gibson J. July 21, 1997		Is the Minister’s opinion that a person constitutes a danger to the public tainted and thereby reversible when that opinion is partly formed on the basis that the person concerned accepts no responsibilities for the crime for which the person was convicted and continues to exercise his legal rights of appeal pursuant to the Criminal Code, appealing the conviction and sentence and continuing to assert his innocence?	Dismissed.
IMM-1180-96	A-614-97	Does consideration by a decision maker of documentary evidence, regarding country information, that has been neither	

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Reed J. Aug. 28, 1997	Rothstein J.A. (Reasons) Décary J.A. Malone J.A. April 11, 2001 2001 FCA 113	specifically identified for nor a copy provided to the convention refugee, who is the subject of a “danger to the public” opinion pursuant to s. 70 (5) of the <i>Immigration Act</i> , offend the principals of natural justice, procedural fairness or fundamental justice?	Yes
IMM-3672-96 Richard J. August 29, 1997		Does an immigration officer processing an application made pursuant to the DROC regulations have the discretion to extend the time for filing the application, either pursuant to the principles of natural justice or fundamental justice, if an applicant files an application after the 120 day period prescribed by the regulations?	No appeal filed
IMM-2890-96 Teitelbaum J. Sept. 2, 1997	A-617-97	Lorsque le juge de le Section de la première instance constate que le tribunal a agi de manière à ce qu’une règle dûment édictée par l’autorité compétente soit transgressée, notamment en entendant deux soeurs de la même famille sans entendre de manière conjointe le mère de celles-ci tel qu’il est prescrit par les règles 10(2) et 10(3) des RÈGLES RÉGISSANT LES TRAVAUX, LA PROCÉDURE ET LA PRATIQUE DE LA SECTION DU STATUT DE RÉFUGIÉ DE LA COMMISSION DE L’IMMIGRATION ET DU STATUT DE RÉFUGIÉ, le juge de première instance a-t-il l’obligation stricte d’intervenir au sens de l’article 18.1 de la <i>Loi sur la Cour fédérale</i> dès qu’il constate ce défaut ou doit-il intervenir uniquement dans le cas où une preuve de préjudice est faite en regard des personnes en cause ou que la décision ne peut tenir valablement à aucun autre égard?	Discontinued
IMM 2761-96 Teitelbaum J. Sept. 6, 1997		<ol style="list-style-type: none"> 1. Is the length of time between an Immigration Officer’s assessment of an application for humanitarian and compassionate relief presented pursuant to subsection 114.(2) of the <i>Immigration Act</i> and the Immigration Officer’s consideration of the opinion of a post claim determination officer on the presence of an alleged danger of return to the Applicant’s country of origin, an indication (a showing) that the Immigration Officer fettered his discretion? 2. (By the Court) Does “giving the parties an opportunity to make a request that the judge certify that a serious question of general importance as contemplated by section 83 of the Act is involved” pursuant to subsection 18(1) of the Federal Court Immigration Rules mean that it is the sole responsibility of the judge hearing the 	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-46-97 Cullen J. September 18, 1997	A-661-97	<p>judicial review to ask the parties if they wish to submit such a question for certification or must a party to the proceedings state to the Court that such a question arises from the proceedings before the Court.</p> <p>Is the expiration of a Board member’s term sufficient grounds to invoke subsection 63(2) of the <i>Immigration Act</i>?</p>	Discontinued
IMM-123-97 Gibson J. September 29, 1997	A-705-97 Richard C.J. Linden J.A. (Reasons) Sexton J.A. January 26, 1999	Can a spouse, by signing an “Undertaking of Assistance” as a spouse and fulfilling the requirements of the Inland Processing Policy Manual, Chapter 4, Section 4.5, be characterized as a “joint sponsor” or “co-sponsor” with rights and responsibilities of a “sponsor” within the meaning of the <i>Immigration Act and Regulations</i> ?	Dismissed Declined to answer . See reasons
IMM-1989-95 Dubé J. October 10, 1997	A-735-97 Stone J.A. Isaac J.A. Evans J.A. (reasons) November 23, 2000	Where: (i) an organization has applied to an immigration Adjudicator for standing or intervenor status at an immigration inquiry; (ii) the Adjudicator has ruled that there is no such thing as intervention at such an inquiry; (iii) the Federal Court Trial Division has granted leave to commence an application for judicial review of that ruling; (iv) the Minister of Citizenship and Immigration, but not the person who was the subject of the inquiry, has taken the position that the Adjudicator was correct in his ruling; (v) the person who was the subject of the inquiry has died; and (vi) there will likely be numerous other forthcoming immigration inquiries at which the organization in question might wish to seek standing or intervenor status --- then (a) is the application for judicial review moot?; and (b) if it is moot, does it meet the established criteria such that the Trial Division should hear and decide it nevertheless?	(a) Yes (b) No
IMM-4279-96 Reed J. October 15, 1997	A-724-97 C.J. Strayer J.A. Linden J.A.(reasons) December 3, 1998	Is it within the jurisdiction conferred upon the Appeal Division of the Immigration and Refugee Board when considering an appeal of an individual, pursuant to paragraph 70(1)(b) of the Act to take into account the potential harmful consequences to the individual, arising as a result of persecution in his or her country of nationality or citizenship?	See reasons issued Dec. 3/98

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-984-96 Wetston J. October 21, 1997	A-810-97	<p>Do the words “before having attained 19 years of age” in the definition of adopted “son” in s.2(1) of the <i>Immigration Regulations</i>, 1978 which serve to exclude male persons adopted over 19 years of age from satisfying the definition of “son”, discriminate against the group of “adoptive parents who adopt male persons over 19 years of age” on the analogous ground of “adoptive parentage” and deny then “equal benefit of the law” contrary to s.15 of the <i>Charter</i>?</p> <p>If the words “before having attained 19 years of age” in the said definition of adopted “son” are inconsistent with s.15 of the <i>Charter</i>, are they saved by s.1 of the <i>Charter</i> as a reasonable limit demonstrably justified in a free and democratic society?</p>	Dismissed
IMM-1187-97 Muldoon J. October 6, 1998		Is according an opportunity to clarify CRDD perceived, putative inconsistencies which arise from documents provided after the hearing part of the duty of fairness binding on the Refugee Division of the Immigration and Refugee Board?	No appeal filed
IMM- 1063-97 Richard J. Feb. 04, 1998	A-85-98 Strayer J.A. Isaac J.A. Evans J.A. (Reasons) May 24, 2001 2001 FCA 165	Once a decision to issue an immigrant visa is taken, is the visa officer <i>functus officio</i> or, does the visa officer have jurisdiction to reconsider his/her decision on the ground of the holder’s inadmissibility prior to the issuance of the visa?	A visa officer is not <i>functus officio</i> once a decision to issue an immigrant visa is made.
IMM-1136-96 Wetston J. December 20, 1996	A-1055-96 Stone J.A. (reasons) Strayer J.A. MacGuigan J.A.	In the absence of a statutory requirement to give reasons, does the failure of the Minister to give reasons, in rendering a subsection 70(5) danger opinion, violate the principles of procedural fairness and natural justice?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	September 3, 1997		
IMM-164-98 Hugessen J. October 8, 1998	A-610-98 Strayer J.A. (reasons) Robertson J.A. Sexton J.A. May 6, 1999	On an application for humanitarian and compassionate relief, is it a denial of the duty of fairness for the officer to deny counsel the right to assist the applicant with his or her responses?	No
IMM-4468-97 Evans J. October 20, 1998	A-57-99 Strayer J.A. (Reasons) Rothstein J.A. Sexton J.A. November 27, 2000	<p>1. Were the decisions by the SIO in finding the applicant ineligible to have her refugee claim determined by the Refugee Division, and excluding her from Canada, made in breach of the duty of fairness, in that the SIO interviewed the applicant in the absence of her counsel, when counsel may have been available to attend the interview if the SIO had not advised the applicant, through her social worker, that a lawyer's attendance at the interview was not necessary?</p> <p>2. Did the SIO err in law in concluding for the purpose of paragraph 46.01(1)(a) of the <i>Immigration Act</i> that the applicant "can be returned" to the country where she has documentary evidence that she has been recognized as a refugee, in the absence of both a travel document establishing that she has a right to enter or reside in that country, and of evidence that in fact she will not be admitted?</p>	<p>No</p> <p>No</p>
IMM-4727-97 Dubé J. October 29, 1998		Where a change of venue has been granted to a Convention refugee which results in a change of the official language to be used at the hearing, but where the claimant does not request that any documentation be translated from the original official language into the second one, is it a breach of natural justice, procedural fairness, or section 14 of the <i>Charter</i> for the CRDD to examine the claimant on any information contained in any of the documents which have not been translated from the original into the second official language?	No appeal filed
IMM-613-97 Rothstein J. November 2, 1998	A-747-98	whether or not, given the fact that the applicants applied separately but at the same time, and that they were going to live in Canada, the second wife in a separate province, the mere fact of the existence of polygamous marriages and legal marriages of the male applicant, to two different spouses, constitutes reasonable grounds to believe that the parties	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		would be practising polygamy in Canada pursuant to section 293 of the Criminal Code, or does there have to be some active step taken once in Canada by the husband and/or either of the two wives, recognizing or referable to the offending marriage before the offence of polygamy can be made out.	
IMM-4953-97 Muldoon J. November 6, 1998	A-686-98 Isaac J.A. Robertson J.A. (Reasons) Sexton J.A. April 6, 2000	In deciding whether or not an applicant has satisfied the requirements of the definition of Convention refugee in section 2 of the <i>Immigration Act</i> , is the CRDD under an obligation or duty to consider the requirements of paragraphs 2(2)(e) and 2(3) of the <i>Immigration Act</i> in sequence in deciding whether or not the requirements of paragraph 2(3) apply to the applicant, in the event that the CRDD has determined that there has been a change in country conditions?	Dismissed
IMM-811-98 Blais J. November 30, 1998	A-737-98 Stone J.A. Rothstein J.A. Evans J.A. (reasons) May 19, 2000	Is it an error of law for a visa officer to award full points for experience under Factor 3 of Schedule 1 to the <u>Immigration Regulations</u> and to consider this same experience as “limited practical experience” under section 11(3)(b) of the <u>Immigration Regulations</u> ?	Appeal allowed on ground that there was a breach of the duty of fairness.
IMM-434-98 Rothstein J. December 11, 1998		Did the Refugee Division breach subsection 69(2) of the <i>Immigration Act</i> by hearing evidence from the minor children of the female applicant Mary Francisca Phillip in her absence?	No appeal filed
IMM-824-98 Rothstein J. December 11, 1998	A-777-98	In the exercise of its discretion under subsection 69.3(5) of the <i>Immigration Act</i> , is the Refugee Division permitted to consider evidence that was not before the original panel that would support the applicant’s refugee claim?	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-1635-97 Muldoon J. December 14, 1998		<p>1. Does a senior immigration officer have jurisdiction, either at common law or pursuant to s.7 of the <i>Charter of Rights and Freedoms</i> and section 52(1) of the <i>Constitution Act, 1982</i>, to consider re-opening a hearing which resulted in the issuance of a removal order in order for a person to claim protection as a Convention refugee?</p> <p>2. If a senior immigration officer does have jurisdiction to re-open is this jurisdiction limited to instances where there has been a breach of natural justice in respect of the original decision?</p>	No appeal filed
IMM-5090-97 Nadon J. December 23, 1998	A-21-99 Rothstein J.A. McDonald J.A. Sharlow J.A. (reasons) August 25, 2000	<p>Whether there is an inherent jurisdiction to extend a statutory time limitation when justice requires it and when the strict adherence to the time limitation results in the frustration of the legislative purpose.</p> <p>Whether, the strict 15-day time limitation set out in section 11.4(2)(b) of the <i>Immigration Regulations</i>, for an application to seek a “risk assessment” under the PDRCC programme, after receiving notice of refusal of a refugee claim, violates section 7 of the <i>Charter of Rights and Freedoms</i>, as such a limitation, with no opportunity for an extension of time, is not in accordance with the principles of fundamental justice.</p>	<p>No</p> <p>No</p>
IMM-3559-97 Muldoon J. December 29, 1998		Is the recommendation of a visa officer on the issue of criminal rehabilitation, pursuant to s. 19(2)(<i>a.1</i>), a decision subject to judicial review? If so, is leave required to commence judicial review proceedings in the matter?	No appeal filed
IMM-166-98 Teitelbaum J. January 8, 1999		May the panel members, on their own initiative, obtain information on the issue before them, whether that information comes from Canadian sources or foreign sources, and then confront the claimant with that information, knowing that the person who provided them with the information cannot be cross-examined?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-1267-94	A-887-96 C.J. Linden J.A. Strayer J.A. (reasons) November 6, 1998	When does a validly issued immigrant visa cease to be valid?	See reasons of F.C.A. issued November 6, 1998
IMM-3039-97 Wetston J. January 11, 1999	A-43-99 Rothstein J.A. (reasons) McDonald J.A. Sharlow J.A. August 23, 2000	If a visa officer determines that an applicant will be able to become successfully established in his occupation or business in Canada pursuant to section 8(4) of the <i>Immigration Regulations</i> and is awarded 30 units of assessment as a result - can the visa officer then refuse the applicant pursuant to section 2(1) of the <i>Immigration Regulations</i> for failure to satisfy her that he would be able to establish a business in Canada as a self-employed person?	Question not answered but decision quashed.
IMM-3684-97 Evans J. February 9, 1999	A-87-99	Does the amended definition of “member of the post-determination refugee claimants in Canada class” contained in subparagraph 2(1)(a)(v) of the <i>Immigration Regulations</i> which came into effect on May 1, 1997, apply to “deemed applicants” for landing as members of this class whose claims for refugee status were dismissed by the Refugee Division after February 1, 1993 and before May 1, 1997?	Discontinued
IMM-3404-95 McKeown J. October 30, 1996	A-772-96 Décary J.A. (reasons) Stone J.A. Strayer J.A. January 12, 1999	Are refugee claimants excluded from the definition of Convention refugee if all groups in their country, including the group of which they are members, are both victims and perpetrators of human rights violations in the context of civil war?	See reasons of F.C.A.
IMM-197-96 Gibson J. November 7, 1996	A-910-96 Robertson J.A. (reasons) Strayer J.A.	Does an immigration officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she considers documentary evidence about general country conditions not contained in the applicant’s immigration files and which post-dates in terms of publication the	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Linden J.A. March 1, 1999	date of the submissions by or on behalf of the person in respect of whom the review is being conducted, without advising that person of the intention to consider that evidence, and without providing that person an opportunity to respond to same?	
IMM-714-96 MacKay J. January 31, 1997	A-75-97 Stone J.A. Décary J.A.(reasons) Robertson J.A. May 1, 1998	Does an immigration officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness, as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she fails to disclose, in advance of determining the matter, documents relied upon from public sources in relation to general country conditions?	See reasons of F.C.A.
IMM-3384-95 Rothstein J. May 14, 1996	A-434-96 Strayer J.A. (reasons) Linden J.A. Robertson J.A. March 1, 1999	Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she considers documentary evidence about general country conditions not contained in the applicant's immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same.	See reasons of F.C.A. See <i>Mancia</i> (A-75-97)
IMM-2775-95 Rothstein J. May 14, 1996	A-435-96 Strayer J.A. (reasons) Linden J.A. Robertson J.A. March 1, 1999	Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she considers documentary evidence about general country conditions not contained in the applicant's immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same.	See <i>Nadarajah</i> (A-434-96) and <i>Mancia</i> (A-75-97)

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-3525-95 Rothstein J. June 6, 1996	A-493-96 Strayer J.A. (reasons) Linden J.A. Robertson J.A. March 1, 1999	Does an Immigration Officer conducting a review pursuant to the PDRCC regulations violate the principle of fairness as enunciated by the Federal Court of Appeal in <i>Shah</i> , when he or she considers documentary evidence about general country conditions not contained in the applicant’s immigration file without advising the applicant of his or her intention to do so, and without providing the applicant an opportunity to respond to same.	See <i>Nadarajah</i> (A-434-96) and <i>Mancia</i> (A-75-97)
IMM-3814-98 Evans J. March 8, 1999	A-175-99 Linden J.A. Rothstein J.A. (reasons) McDonald J.A. September 7, 1999	<p>1. Is a non-citizen, who is incarcerated following a criminal conviction and is the subject of an order under subsection 105(1) of the <i>Immigration Act</i>, and consequently ineligible to be considered by a parole board for day release or an unescorted temporary absence, thereby “detained pursuant to the [Immigration] Act ... for removal”, and thus entitled to a review of the reasons for the continuation of the detention under subsection 103(6)?</p> <p>C.A. restated the question as follows and answered it yes:</p> <p>Is a non-citizen who is incarcerated following a criminal conviction and is the subject of an order under subsection 105(1) of the <i>Immigration Act</i> and thought to be ineligible to be considered by a parole board for day release or an unescorted temporary absence thereby detained pursuant to the <i>Immigration Act</i> for removal and thus entitled to a review of the reasons for the continuation of the detention under subsection 103(6).</p> <p>2. If subsection 103(6) of the <i>Immigration Act</i> does not apply to orders made under subsection 105(1), does the Act violate section 9 of the <i>Canadian Charter of Rights and Freedoms</i>?</p> <p>3. If there is a violation of section 9, is it appropriately remedied by reading into subsection 105(1), immediately</p>	<p>Yes</p> <p>Not dealt with</p> <p>Not dealt with</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		following the words “the Deputy Minister may issue an order”, the words “reviewable under subsection 103(6) as soon as practicable after the order removes the person’s eligibility for day parole and unescorted temporary absence and every six months thereafter that the order is in force”?	
IMM-580-98 McKeown J. March 12, 1999		<ol style="list-style-type: none"> 1. Is the legal test of the reasonableness of an IFA the same for adults and children insofar as the absence of family and friends and the inability to support oneself in the proposed IFA are not relevant considerations? 2. If so, in assessing the reasonableness of an IFA for children, does the age of the child have any bearing on the test? 	No appeal filed
IMM-2788-97 Tremblay-Lamer J. May 25, 1998	A-375-98 Décary J.A. (reasons) Strayer J.A. Robertson J.A. May 21, 1999	<p>Whether SIOs have the implied jurisdiction to decide questions of law?</p> <p>If not, whether the Trial Division, when hearing an application for judicial review under section 18.1 of the Federal Court Act, has the jurisdiction to decide a constitutional challenge to the validity of a section of the Immigration Act?</p>	<p>No</p> <p>Yes</p>
IMM-4014-98 and IMM-4402-98 Reed J. March 30, 1999	A-245-99 A-246-99 Stone J.A. (reasons) Isaac J.A. Sharlow J.A. (dissenting) December 20, 2000	Is a decision of a Programme Manager, as the Minister’s delegate, made under ss. 114(2) of the <i>Immigration Act</i> of s. 2.1 of the <i>Regulations</i> , determining that there are insufficient humanitarian and compassionate grounds to warrant special consideration which arose from an application for permanent residence outside of Canada, subject to the leave provisions under ss. 82.1(1) of the <i>Immigration Act</i> ?	Yes
IMM-1701-95 Dubé J.	A-30-97 Linden J.A. (reasons)	1. Does a senior immigration officer have jurisdiction, either at common law or pursuant to s.7 of the <i>Charter of Rights and Freedoms</i> (the “ <i>Charter</i> ”)and section 52(1) of the <i>Constitution Act, 1982</i> , to consider reopening a hearing which	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
December 31, 1996	Robertson J.A. McDonald J.A. June 4, 1999	<p>resulted in the issuance of a removal order in order for a person to claim protection as a Convention refugee?</p> <p>2. If a Senior Immigration Officer does have jurisdiction to reopen is this jurisdiction limited to instances where there has been a breach of natural justice in respect of the original decision?</p> <p>3. If so limited, was there a breach of natural justice or the principles of fundamental justice in the failure of the Senior Immigration Officer to advise the applicant of a right to counsel prior to conclusion of the hearing before the Senior Immigration Officer which resulted in the issuance of a removal order?</p>	<p>Not answered</p> <p>Not answered</p>
IMM-1431-97 Muldoon J. June 8, 1999	A-359-99	As between the applicant and the Minister of Citizenship and Immigration, does the judgement [<i>sic</i>] of a Federal Court foreclose further investigation of those issues of law and mixed fact and law which were raised in the hearing and on the material and cross-examination as filed or which reasonably could have been raised by either party on the said material provided that the matters were backward looking and of a certain date.	Discontinued
IMM-1979-98 McKeown J. April 12, 1999	A-279-99 Richard C.J. Décary J.A. (reasons) Noël J.A. November 15, 2000	Is it a reversible error if a panel of the Refugee Division determining a refugee claim pursuant to section 69.1 of the Immigration Act ignores documentation not introduced into evidence by a claimant, nor in the possession of a panel but which comes into the possession of the Refugee Division after the conclusion of the hearing?	No
IMM-3945-94 Gibson J. October 5, 1995	A-746-95 Stone J.A. (reasons) Linden J.A. Robertson J.A.	Do the audio tape recordings of refugee determination hearings constitute part of the record, such that they should be considered on judicial review where they may reveal relevant evidence or information, such as particular characteristics of witness demeanour, not otherwise discernible from other components of the record?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	April 15, 1999		
IMM-2154-98 Mackay J. April 23, 1999	A-294-99 Isaac J.A. Robertson J.A. (reasons) Sharlow J.A. July 24, 2000	<p>Where the Convention Refugee Determination Division determines that a conviction for a crime, prior to the admission to Canada of one who claims refugee status, is evidence of the commission of a serious non-political crime within Article 1F(b) of the United Nations Convention as incorporated in the <i>Immigration Act</i>, R.S.C. 1985, C. I-2 as amended, by s-s 2(1) defining “Convention refugee” and the schedule to the <i>Act</i>,</p> <p>(i) Is that determination subject to judicial review on the standard of “correctness”?</p> <p>(ii) If so, is the determination correct that conviction abroad for a crime, such as unlawful use of telecommunication equipment, committed in connection with trafficking in narcotic drugs, with a resulting penalty of significant incarceration, constitutes a serious non-political crime within Article 1F(b) of the Convention, and thus of the <i>Act</i>?</p>	See reasons.
IMM-2678-98 McKeown J. April 21, 1999	A-277-99	Does an educational institution which is not under the control, management or supervision of any government authority, qualify as a “university, college or other education institution” within the meaning of “dependent son or daughter” in s. 2(1) of the <u>Immigration Regulations</u> ?	Discontinued
IMM-2787-98 Sharlow J. April 27, 1999		<p>1. Do “law abiding citizens of Mexico” constitute a “particular social group” within the meaning of the Convention?</p> <p>2. Can a refugee claim succeed on the basis of a well founded fear of persecution for reason of membership in a particular social group that is a family, if the family member who is the principal target of the persecution is not subject to persecution for a Convention reason?</p>	No appeal filed
IMM-3326-98 Evans J. May 21, 1999	A-348-99 Létourneau J.A. (reasons) Sexton J.A.	Is it an error of law for the Refugee Division to fail to take into account for the purpose of the unreasonableness inquiry under the second branch of the <i>Rasaratnam</i> test the fact that a refugee claimant who has relatives in Canada has no relatives in the safe area of the country of nationality?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Malone J.A. December 21, 2000		
IMM-4133-94 Simpson J. October 30, 1995	A-414-95 Létourneau J.A. (reasons) Rothstein J.A. McDonald J.A. June 22, 1999	When a board determines that Section 69.1(9.1) of the <i>Immigration Act</i> may apply, is it required to give notice to the Claimant?	No
IMM-3789-97 Reed J. August 5, 1998	A-486-98 Létourneau J.A. Rothstein J.A. (reasons) McDonald J.A. June 24, 1999	Does special education as described in the reasons for this order fall within “social services” as that term is used in subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> ? Answer: Yes. Special education, including education of mentally challenged student within the publicly funded provincial primary and secondary school systems, falls within social services as that term is used in subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> .	Appeal allowed. See answer below question.
IMM-3732-98 Sharlow J. July 7, 1999	A-450-99 Richard C.J. (reasons) Décary J.A. Noël J.A. November 16, 2000	Did the Appeal Division of the Immigration and Refugee Board exceed its jurisdiction when it considered public safety in the appeal of a deportation order under paragraph 70(3)(b) of the <i>Immigration Act</i> ?	No
IMM-3415-98 Sharlow J. July 8, 1999	A-456-99 Décary J.A. (reasons) Rothstein J.A.	Where the Appeal Division of the Immigration and Refugee Board has heard and dismissed the appeal of a deportation order, does it have the jurisdiction to reopen the appeal if the deportation order is executed after the motion to reopen is filed but before the Appeal Division grants the motion?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Malone J.A April 5, 2000		
IMM-3549-98 Gibson J. July 15, 1999	A-464-99 Linden J.A. (reasons) McDonald J.A. Malone J.A. November 14, 2000	<p>Does the phrase “this Act” found in paragraph 46.01(1)(d) of the <i>Immigration Act</i>, R.S.C. 1985, c. I-2, as amended, refer to the <i>Immigration Act</i> as it read at the time the current form of paragraph 46.01(1)(d) came into force and the form of that <i>Act</i> since that date, or to the <i>Immigration Act</i>, by whatever name known, in all of the forms that it has taken since 1983?</p> <p>Answer: The phrase “this Act” found in paragraph 46.01(1)(d) of the <i>Immigration Act</i>, R.S.C. 1985, c. I-2 as amended refers to the <i>Immigration act</i> by whatever name it was known in all of the forms taken since the date it came into force, April 10, 1978.</p>	Appeal dismissed.
IMM-2090-98 Blais J. August 5, 1998	A-512-99 Strayer J.A. Noël J.A. Evans J.A. (reasons) January 23, 2001	When after completion of a hearing, a Board has determined that a claimant is not a Convention refugee, and provides its reasons for decision orally, which are later reduced to writing and sent, along with the written notice of decision to the claimant, has the Board complied with ss.69.1(9) & 69.1(11)(a) of the <i>Immigration Act</i> ?	Dismissed on other grounds.
IMM-4907-98 Pinard J. August 13, 1999	A-522-99	<p>1. Does an immigration officer have the power to extend the time prescribed by paragraph 11.4(2)(b) of the <i>Immigration Regulations</i> for submitting an application for a determination of whether the applicant is a member of the post-determination refugee claimants in Canada class?</p> <p>2. Is paragraph 11.4(2)(b) of the <i>Immigration Regulations</i> beyond the scope of the regulation-making powers that paragraph 114(1)(e) of the <i>Immigration Act</i> confers on the Governor in Council, in that it prescribes the time for</p>	Appeal dismissed for undue delay in prosecuting the proceeding

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		submitting an application for a determination of whether the applicant is a member of the post-determination refugee claimants in Canada class for the purposes of subsection 6(5) of the Act?	
IMM-5202-98 Pinard J. August 13, 1999	A-523-99 Desjardins J.A. Décary J.A. Noël J.A. (Reasons) le 10 mars 2000	<p>1. Does an immigration officer have the power to extend the time prescribed by paragraph 11.4(2)(b) of the Immigration Regulations for submitting an application for a determination of whether the applicant is a member of the post-determination refugee claimants in Canada class?</p> <p>2. Is paragraph 11.4(2)(b) of the <i>Immigration Regulations</i> beyond the scope of the regulation-making powers that paragraph 114(1)(e) of the <i>Immigration Act</i> confers on the Governor in Council, in that it prescribes the time for submitting an application for a determination of whether the applicant is a member of the post-determination refugee claimants in Canada class for the purposes of subsection 6(5) of the Act?</p>	Appeal dismissed for undue delay in prosecuting the proceeding
IMM-5874-98 Teitelbaum J. September 3, 1999	A-575-99	<p>1. Can the Court set aside an Order pursuant to Rule 399(2) of the Federal Court Rules which was granted solely due to counsel's failure to understand and comply with procedural requirements?</p> <p>2. Given that section 18 of the Federal Court Act grants the Trial Division exclusive jurisdiction to review decisions made by immigration tribunals, does the Trial Division have inherent jurisdiction to vindicate a legal right independent of statutory grants contained in the Federal Court Act, the Federal Court Rules and the Immigration Act?</p> <p>3. Given that section 118 of the Federal Court Act grants the Trial Division exclusive jurisdiction to review decisions of immigration tribunals, does the Trial Division have the inherent jurisdiction to set aside an Order dismissing an Application for Leave and for Judicial Review, independent of Federal Court Rules 397 and 399?</p>	Discontinued
IMM-4836-98	A-534-99	Is the Refugee Division properly constituted by a single member when determining a motion to reopen on the ground	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Evans J. August 17, 1999	Linden J.A. Sharlow J.A. Malone J.A. (Reasons) May 23, 2001 2001 FCA 163	of procedural unfairness a decision of a panel dismissing the applicant's claim to be recognized as a refugee in Canada?	
IMM-1218-98 Evans J. September 3, 1999	A-555-99	Does the duty of fairness require that the letter advising a visa applicant of a negative medical assessment, and inviting the applicant to submit further medical information not already in the file, must also invite the applicant to submit additional evidence on whether the admission of the person concerned might reasonably be expected to cause excessive demand on health or social services in Canada?	Discontinued
IMM-2836-97 Noël J. April 6, 1998	A-261-98 Isaac J.A. McDonald J.A. (reasons) Sexton J.A. September 29, 1999	Where an adjudicator has found that a person was granted landing by means of an improperly obtained visa pursuant to paragraph 27(1)(e) of the <i>Immigration Act</i> , and a removal order has been issued against that person as a result, is the person entitled to appeal that order to the Appeal Division by virtue of subsection 70(1)?	Yes
IMM-4780-98 Gibson J. September 8, 1999	A-587-99 Stone J.A. Evans J.A. (Reasons) Malone J.A. June 12, 2000	<p>Does an Immigration Officer assessing an application for landing from within Canada on humanitarian or compassionate grounds pursuant to subsection 114(2) of the <i>Immigration Act</i> breach the duty of fairness owed to an applicant where he or she relies on a document prepared at the request of the Officer, such as a Post-Claim Determination Officer's recommendation and rationale, where such document is not disclosed to the applicant and the applicant is given no opportunity to respond to it?</p> <p>Answer: It was a breach of the duty of fairness for the immigration officer, prior to her decision, to have failed to inform the</p>	Dismissed. See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		respondent of the content of the PCDO's risk assessment, with which she had concurred, and to give him a reasonable opportunity to attempt to identify errors or omissions in it	
IMM-4908-96 Teitelbaum J. December 15, 1997	A-917-97 Marceau J.A. Desjardins J.A. Létourneau J.A. (Reasons) September 30, 1999	<ol style="list-style-type: none"> 1. Where an adjudicator finds that a person was granted landing by means of a misrepresentation of his or her marital status and the person appeals the adjudicator's removal order pursuant to subsection 70(1) of the <i>Immigration Act</i>, may the Appeal Division dismiss the appeal for want of jurisdiction based on the adjudication record and the parties' arguments concerning its jurisdiction without hearing the merits of the appeal? 2. Does the Appeal Division have jurisdiction under subsection 70(1) to entertain the appeal of a person who was landed on the basis of a fraudulent misrepresentation made by that person? 3. In particular, has a person who has been landed on the basis of a fraudulent misrepresentation been given "lawful permission to establish permanent residence in Canada" so as to be a "permanent resident" who can appeal under subsection 70(1) of the <i>Immigration Act</i>? 4. Does the Appeal Division have jurisdiction under subsection 70(1) to entertain the appeal of a person, whether or not the report on that person was made under paragraph 27(1)(e) or paragraph 27(2)(g) of the Act? 	<p>Appeal allowed.</p> <p>1.No</p> <p>2. Yes</p> <p>3. Yes</p> <p>4. Yes</p>
IMM-5228-98 Muldoon J. September 29, 1999		Is the enacted pardon from crime accorded by the country of a party's citizenship necessarily effective and to be disclosed in Canadian law when that party seeks permanent residence in Canada under the <i>Immigration Act</i> , despite that party's presumably fair conviction of an offence in a third country?	No appeal filed
IMM-6316-98 Teitelbaum J. January 14, 2000	A-55-00 Desjardins J.A. (Reasons) Décary J.A. Noël J.A. September 12, 2001 2001 FCA 265	<ol style="list-style-type: none"> 1. Le droit à la confidentialité et au huis clos de l'article 69(2) de la <i>Loi sur l'Immigration</i>, laisse t'il un employé de la C.I.S.R. discuter et transmettre des informations confidentielles à Immigration Canada? Surtout si cette personne les a obtenues lors d'une entrevue visant à déterminer si le revendicateur est un réfugié ou non? 2. Immigration Canada a-t-il le droit d'utiliser des renseignements confidentiels, obtenue contrairement à la <i>Loi sur l'Immigration</i>, dans le cadre du droit à la confidentialité et au huis clos de l'article 69(2) de la <i>Loi sur l'Immigration</i>. 	<p>Appeal dismissed.</p> <p>Questions not answered.</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-980-97 Teitelbaum J. June 11, 1999	A-651-99 Décary J.A. Létourneau J.A. (Reasons) Noël J.A. May 14, 2001 2001 FCA 151	En vertu des articles 14 et 55 de la <i>Loi constitutionnelle de 1867</i> , le Gouverneur général peut-il nommer des juges de la Cour suprême qui agiront pour son compte et leur confier ses pouvoirs, attributions et fonctions, dont la faculté de donner la sanction royale?	Oui
IMM-3822-98 Cullen J. September 13, 1999	A-569-99	<p>Did the Officer err in awarding five points to the Applicant in the category of personal suitability?</p> <p>Does the Court have jurisdiction to declare that an Applicant is likely to become successfully established in Canada, given that this is an issue that the visa Officer is called upon to decide?</p> <p>Does the Court have jurisdiction to direct that an Applicant be awarded a certain number of points under the category of personal suitability?</p> <p>Does the Court have jurisdiction, in an award of costs, to order the Respondent to compensate the Applicant for expenses which are unrelated to the actual cost of the litigation? If so, what is the extent of the Court's jurisdiction?</p>	Discontinued
IMM-2264-97 Wetston J. June 18, 1998	A-403-98 Décary J.A. (reasons) Robertson J.A. McDonald J.A.	Where, after the completion of a hearing, a Board has determined that a claimant is not a <i>Convention</i> refugee, and provides its reasons for decision orally, which are later reduced to writing and sent, along with the written notice of decision to the claimant, has the Board complied with ss. 69.1(9) & 69.1(11)(a) of the <i>Immigration Act</i> ?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	September 20, 1999		
IMM-87-99 Teitelbaum J. January 13, 2000	A-46-00	<p>Does paragraph 53(1)(d) of the <i>Immigration Act</i> infringe section 7 of the <i>Charter</i>, and if it does, is it a reasonable limit prescribed by law as can be demonstrably justified in a free and democratic society within the meaning of section 1 of the <i>Charter</i>? Are the principles of fairness at common law and the principles of fundamental justice under section 7 of the <i>Charter</i> met by the present administrative process for the determination by the Minister, under paragraph 53(1)(d) of the <i>Immigration Act</i>, as to whether in the Minister’s opinion a person constitutes a danger to the public in Canada?</p> <p>Does the duty of procedural fairness require the provision of written reasons for a Minister’s opinion under paragraph 53(1)(d) of the <i>Immigration Act</i>? If so, is this requirement satisfied by the provision to the Applicant of the “Request for Minister’s Opinion”?</p>	Discontinued
IMM-365-99 Teitelbaum J. January 17, 2000	A-45-00 Décary J.A. Létourneau J.A. (Reasons) Noël J.A. May 14, 2001 2001 FCA 153	Can there be « <i>no alternative</i> ... but to declare [a refugee] case abandoned when Section 69.1(6) of the <i>Immigration Act</i> says that the Refugee Division «may ... declare the claim to have been abandoned?	No
IMM-218-99 Pelletier J. December 17, 1999		Is a visa officer obliged to assess an applicant for permanent residence in Canada in occupations other than those for which the applicant has sought an assessment?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-787-98 Dubé J. February 3, 2000		<p>1. Does the respondent breach the duty of fairness owed to the person against whom a danger to the public in Canada opinion is reached pursuant to subsection 70(5) of the Immigration Act if a “Request for Minister’s Opinion” summary report and a “Danger To The Public Ministerial Opinion Report”, or equivalents substantially similar to those at issue in this matter, form part of the materials put before the respondent’s delegate who issues the opinion and those reports have not been shared with the person affected and that person has not been given a reasonable opportunity to respond, or if he or she has, the response is not also put before the respondent’s delegate without further analysis or commentary?</p> <p>2. In light of the decision of the Supreme Court of Canada in <i>Baker v. M.C.I.</i> (1999) File No. 25823, is the standard of judicial review of an opinion of the Minister’s delegate under s. 70(5) of the Immigration Act now “reasonableness <i>simpliciter</i>” as opposed to whether or not the opinion was reasonably open to the decision maker as per <i>Williams v. M.C.I.</i> [1997] 2 F.C. 646?</p> <p>3. In light of the decision of the Supreme Court of Canada in <i>Baker v. M.C.I.</i> (1999) File No. 25823, and in particular, the court’s disagreement with the holding of the Federal Court of Appeal in <i>Shaw v. M.C.I.</i> (1994) 170 N.R.238 (F.C.A.), is the duty of fairness owed to an individual in an opinion reached pursuant to subsection 70(5) of the Immigration Act simply “minimal” per <i>Williams v. M.C.I.</i> [1997] 2 F.C. 646?</p> <p>4. In light of the decision of the Supreme Court of Canada in <i>Baker v. M.C.I.</i> (1999) File No. 25823, are written reasons required by the decision maker for an opinion pursuant to subsection 70(5) of the Immigration Act?</p> <p>4. Does the duty of procedural fairness require the provision of written reasons for a Minister’s opinion under subsection 70(5) of the <i>Immigration Act</i>? If so, is this requirement satisfied by the provision to the applicant of the “Request for Minister’s Opinion?”</p>	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2023-99 Pinard J. April 20, 2000	A-260-00 Richard C.J. (Reasons) Desjardins J.A. Décary J.A. Oct. 10, 2001 2001 CAF 295	Is paragraph 11.4(2)(b) of the <i>Immigration Regulations, 1978</i> beyond the scope of the regulation-making powers that paragraph 114(1)(e) of the <i>Immigration Act</i> (the Act) confers on the Governor in Council, in that it prescribes the time for submitting an application for a determination of whether the applicant is a member of the Post-Determination Refugee Claimants in Canada class for the purposes of subsection 6(5) of the Act?	No
IMM-4898-96 Campbell J. May 19, 1998	A-360-98 Décary J.A. Rothstein J.A. (reasons) Malone J.A.	Does the word “citizen” in s.6 of the <i>Charter of Rights and Freedoms</i> have a meaning independent from statute? If the answer to this question is yes, does an opinion under s.70(5) of the <i>Immigration Act</i> violate a s.6 right? Can s.12 of the <i>Charter of Rights and Freedoms</i> be violated where s.7 of the <i>Charter</i> is not violated? If the answer to this question is yes, does an opinion under s.70(5) of the <i>Immigration Act</i> violate the s.12 right.	No No to second part of question.
IMM-1932-99 Campbell J. April 6, 2000	A-229-00	1. Respecting the application of s.44(1) of the <i>Act</i> , is a departure order “unexecuted” as a result of not obtaining a Certificate of Departure? 2. Respecting the application of s.44(1) of the <i>Act</i> , is a deemed deportation order that arises under s.32.02(1) of the <i>Act</i> the equivalent of an unexecuted removal order?	Discontinued
IMM-3280-99 Campbell J. April 5, 2000	A-242-00 Malone J.A. (reasons) Isaac J.A. Sexton J.A. April 27, 2001 2001 FCA-127	When an adjudicator has found that a person has lost permanent residence by application of s. 24 of the <i>Immigration Act</i> , does the IAD have jurisdiction to consider an appeal under s.70(1) of the <i>Immigration Act</i> Answer: When an adjudicator has found that a person has lost permanent residence by application of s. 24 of the <i>Immigration Act</i> , the Board must, in determining whether it has jurisdiction over the appeal, determine whether the adjudicator	See answer under question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		correctly decided whether the person has lost permanent residence. If the Board concludes that the adjudicator correctly decided that the person has lost permanent residence, then the Board has no jurisdiction to consider the appeal under s. 70(1)(b) of the <i>Immigration Act</i>	
IMM-5114-98 Lemieux J. April 20, 2000	A-289-00 Richard C.J. (Reasons) Décary J.A. Noël J.A. December 21, 2001 2001 FCA 399	Do these reasons correctly interpret paragraph 19(1)(f)(i) of the <i>Immigration Act</i> ? Answer: The application judge erred in his interpretation of the expression democratic government, institutions or processes, as they are understood in Canada, by limiting it to institutions exercising political (governmental) authority.	See answer below question.
IMM-1491-99 Rouleau J. December 3, 1999	A-838-99 Noël J.A. Evans J.A. (Reasons) Sharlow J.A. April 2, 2001 2001 FCA 97	Would a reasonable apprehension of bias be created by the fact that a member of the Convention Refugee Determination Division of the Immigration and Refugee Board is an employee on leave of absence from a position as an immigration officer in the Enforcement Branch of the Department of Citizenship and Immigration?	Appeal Dismissed See Reasons
IMM-6777-98 Denault J. November 22, 1999		1. Is an immigration officer required to refer an application to re-open a refugee claim to an S.I.O. where the claim was initiated prior to the issuance of a removal order but the claimant has withdrawn the claim, and where the claimant now seeks to re-open the claim based on new psychiatric evidence, after a removal order has been issued? 2. Does a Senior Immigration Officer have jurisdiction to consider the eligibility of a refugee claim pursuant to section 45 of the Act, if the refugee claim was initiated prior to the issuance of a removal order, but not referred to the S.I.O. until after the removal order was issued?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-843-98 Nadon J. November 5, 1999	A-745-99	Does the Canada-Quebec Accord limit the jurisdiction of the visa officer to question the source of funds of a Quebec-destined applicant for permanent residence in Canada, in order to establish the applicant's admissibility?	No - See A-752-99 (2001 FCA 43)
IMM-5893-99 Dawson J. November 20, 2000	A-738-00	Does the Minister breach the duty of fairness owed to the person against whom a danger to the public in Canada opinion is reached pursuant to subsection 70(5) and paragraph 53(1)(d) of the Act if a "Request for Minister's Opinion" summary report and a "Danger to the Public Ministerial Opinion Report", or equivalents substantially similar to those at issue in this matter, form part of the materials put before the Minister's delegate who issues the opinion and those reports have not been shared with the person affected and that person has not been given a reasonable opportunity to respond to the reports?	Discontinued
IMM-6106-98 Gibson J. September 20, 1999	A-599-99 Isaac J.A. Sexton J.A. Sharlow J.A. (Reasons) April 2, 2001 2001 FCA 100	Does a visa officer, who is processing an application for permanent residence that designates a mailing address for the applicant that is the mailing address of an immigration consultant, owe a duty to the applicant to ensure that the applicant has received notice of a scheduled interview in circumstances where the visa officer becomes aware that the immigration consultant has encountered difficulties that may impact on the service provided by the immigration consultant to the applicant?	No
IMM-5537-98 Pelletier J. October 6, 1999		<p>Is it within the jurisdiction of a visa officer to decline to assess a visa applicant with respect to the occupation designated by the applicant on the basis of the officer's judgment that an applicant will probably be unable to satisfy Canadian licensing requirements in the applicant's designated occupation on the basis of:</p> <ol style="list-style-type: none"> 1) factors taken into account elsewhere in Schedule I, for example, the applicant's proficiency in English or French; or 2) any other factors 	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-525-99 Gibson J. March 17, 2000	A-214-00	Does the time bar in ss. 18.1(2) of the <i>Federal Court Act</i> , or ss. 82.1(3) of the <i>Immigration Act</i> , apply so as to bar the grant of relief in the nature of <i>certiorari</i> or any other form in an application for judicial review against a “course of conduct”.	Discontinued
IMM-1264-99 Pinard J. February 25, 2000	A-138-00 Desjardins J.A. (Motifs) Décary J.A. Noël J.A. April 6, 2001 R.N.: 2001 CAF 112	En vertu du pouvoir décisionnel qui lui est accordé à l’alinéa 46.04(3) de la <i>Loi sur l’immigration</i> , un agent d’immigration peut-il, sans l’intervention d’un arbitre, refuser d’accorder le droit d’établissement, à l’intéressé et aux personnes à sa charge visées par la demande, au motif qu’il n’est pas convaincu qu’aucun d’entre eux n’est visé à l’alinéa 19(1) <i>j</i>) de la même loi?	Oui
IMM-6664-98 Pelletier J. February 24, 2000	A-114-00	Where a visa application by an immigrant (the principal applicant) indicates that the immigrant will be accompanied by a dependant in respect of whom an application is required to be submitted and/or fees are required to be paid (the dependant applicant), is the date as of which the application is to be assessed the date on which the principal applicant’s completed application and all required fees are in the physical possession of the respondent, or is it the date on which all completed applications for the principal and dependant applicant(s) and/or all required fees are in the physical possession of the respondent?"	Discontinued
IMM-2372-98 Dubé J.	A-121-00 Linden J.A. (Reasons)	1. In the absence of evidence as to the motivating considerations which led to the grant of a pardon by another state jurisdiction, is a Canadian Court bound by the pardon?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
February 17, 2000	Sharlow J.A. Malone J.A. Oct. 19, 2001 2001 FCA 311	<p>2. Where a pardon is “on conviction/term of imprisonment already undergone”, is this considered to be a pardon which erases the conviction and consequences?</p> <p>2. Does the nature of the offence of hijacking provide a solid rationale to depart from the principle that a pardon granted by another jurisdiction, whose laws are based on a similar foundation as in Canada, be recognized in Canada?</p>	<p>Not answered</p> <p>Yes</p>
IMM-6109-98 Gibson J. March 9, 2000	A-149-00	Does an Immigration Officer assessing an application for landing from within Canada on humanitarian or compassionate grounds pursuant to subsection 114(2) of the <i>Immigration Act</i> breach the duty of fairness owed to an applicant where he or she relies on a document prepared at the request of the Officer, such as a Post-Claim Determination Officer’s recommendation and rationale, where such document is not disclosed to the applicant and the applicant is given no opportunity to respond to it?	Discontinued
IMM-5759-99 McKeown J. June 23, 2000		Is a visa officer entitled to take into account an applicant’s efforts to explore to obtain employment or establish employment contacts in Canada in her assessment of an applicant’s personal suitability?	No appeal filed
IMM-4355-99 McKeown J. June 23, 2000		Where the National Occupational Classification specifies that a certain employment requirement is “usually required”, is it an error for a visa officer to treat the requirement as “always required” in deciding whether to award an applicant points for experience under Schedule I of the <i>Immigration Regulations</i> ?	No appeal filed
IMM-2333-99 IMM-2334-99 Campbell J. May 23, 2000	A-389-00	<p>1. Given the Supreme Court of Canada’s decision in <i>Baker</i>, is the Minister required to give reasons for an opinion rendered under s.70(5) and s.53(1) of the <i>Act</i>?</p> <p>2. Is a “REQUEST FOR MINISTER’S OPINION” reasons for the opinions rendered?</p>	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		3. If a “REQUEST FOR MINISTER’S OPINION” is reasons, must humanitarian and compassionate considerations be factors in the opinion rendered, including the impact of an opinion on the Applicant and his or her family, in particular, on his or her children?	
IMM-3113-99 Dawson J. July 20, 2000		Does the Appeal Division of the IRB exceed or misinterpret its jurisdiction set out in s.77(3)(b) of the <i>Immigration Act</i> by following the rationale and the principles set out in the Appeal Division case of <i>Jugpall v. M.C.I.</i> (1999), 2 Imm. L.R. (3d) 222, namely, that a different and lower threshold based on positive and negative factors should be applied in circumstances where the obstacle to admissibility has been overcome at the time of the hearing?	No appeal filed
IMM-2761-99 McKeown J. August 18, 2000	A-530-00 Rothstein J.A. (Reasons) Evans J.A. Malone J.A. October 31, 2001 2001 FCA 329	Is a passport, however issued by an applicant’s country of citizenship, sufficient for the purposes of ss. 46.04(8) of the <i>Immigration Act</i> , or may an immigration officer have reference to the underlying process for issuance in determining whether to accept it for the purposes of the subsection?	Appeal dismissed for mootness
IMM-1941-99 MacKay J. May 29, 2000	A-397-00	Is it a breach of procedural fairness for a visa officer, without first obtaining consent of an applicant for permanent residence in Canada, to rely upon a colleague from the staff at a Canadian mission abroad for services as an interpreter at an interview of the applicant, where the staff member relied upon does not have professional qualifications as an interpreter?	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2578-99 Gibson J. May 26, 2000	A-394-00 Décary J.A. (Reasons) Evans J.A. Sharlow J.A. June 4, 2001 2001 FCA 187	Where a person who is under a removal order leaves Canada voluntarily but without the consent of the Minister of Citizenship and Immigration, and is lawfully admitted to another country, is the removal order deemed to have been executed?	No
IMM-6500-98 Pelletier J. March 10, 2000	A-197-00 Stone J.A. (Reasons) Rothstein J.A. Sexton J.A. June 6, 2001 2001 FCA 191	<p>Does the analysis developed by the Supreme Court of Canada <i>R. v. Tran supra</i> in relation to the application of s. 14 of the <i>Charter</i> to criminal proceedings apply to proceedings before the CRDD, and in particular:</p> <p>1- Must the interpretation provided to applicants be continuous, precise, competent, impartial and contemporaneous?</p> <p>2- Must applicants show that they have suffered actual prejudice as a result of a breach of the standard of interpretation before the Court can interfere with the CRDD's decision?</p> <p>3- Where it is reasonable to expect an applicant to do so, such as when an applicant has difficulty understanding the interpreter, must the applicant object to the quality of interpretation before the CRDD as a condition of being able to raise the quality of interpretation as a ground of judicial review?</p>	<p>Yes</p> <p>No</p> <p>Yes</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-4466-97 IMM-4468-97 Evans J. October 20, 1998	A-57-99 Strayer J.A. (Reasons) Rothstein J.A. Sexton J.A. November 27, 2000	<p>1. Were the decisions by the SIO in finding the applicant ineligible to have her refugee claim determined by the Refugee Division, and excluding her from Canada, made in breach of the duty of fairness, in that the SIO interviewed the applicant in the absence of her counsel, when counsel may have been available to attend the interview if the SIO had not advised the applicant, through her social worker, that a lawyer’s attendance at the interview was not necessary?</p> <p>2. Did the SIO err in law in concluding for the purpose of paragraph 46.01(1)(a) of the Immigration Act that the applicant “can be returned” to the country where she has documentary evidence that she has been recognized as a refugee, in the absence of both a travel document establishing that she has a right to enter or reside in that country, and of evidence that in fact she will not be admitted?</p>	<p>No</p> <p>No</p>
IMM-1441-96 Dubé J. February 3, 1998	A-75-98 Linden J.A. Sexton J.A. Evans J.A. (reasons) December 12, 2000	<p>1. Is a person entitled as a matter of procedural fairness to a summary of the information that, under subsection 82.1(10) of the Act, the Court has determined should not be disclosed to the person, even if that summary does not contain the identity of the informer?</p> <p>2. Is counsel representing the person entitled as a matter of procedural fairness to a summary of the information determined by the Court not to be disclosed to the person under subsection 82.1(10) of the Act, without the identity of the informer being revealed to counsel, upon counsel’s undertaking not to reveal the summary to the person?</p> <p>3. What is the proper interpretation of the terms “reasonable grounds” and “members” within the context of paragraph 19(1)(c.2) of the Act?</p>	<p>1. No</p> <p>2. No</p> <p>3. On the facts it is not necessary</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
			<p>to answer this question; however, in light of the record as a whole, including the confidential material, the Judge made no reviewable error in his treatment of these issues.</p> <p>(See reasons for additional questions raised by counsel at the hearing.)</p>
IMM-6715-98 Evans J. November 29, 1999	A-783-99 Rothstein J.A. (Reasons) Sharlow J.A. Malone J.A. March 13, 2001 2001 FCA 37	<p>Is a person who obtained a visa and was granted landed status by fraudulently misrepresenting his or her identity thereby not in possession of “lawful permission to establish permanent residence in Canada” and thus not a “permanent resident” within the meaning of subsection 70(1) of the <i>Immigration Act</i>?</p> <p>Answer: A person who obtained a visa and was granted landed status by fraudulent or improper means or misrepresenting his or her identity is in possession of “Lawful permission to establish permanent residence in Canada” and thus is a “Permanent resident” within the meaning of ss.70(1) of the <i>Immigration Act</i>.</p>	See answer below the question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-5870-99 Simpson J. August 24, 2000	A-532-00 Rothstein J.A. Sexton J.A. (Reasons) Evans J.A. March 25, 2002 2002 FCA 119	Is it a violation of the principles of natural justice for a Board member to read a previous adverse decision before hearing a refugee claim <i>de novo</i> ?	No
IMM-5756-99 IMM-5757-99 McKeown J. September 15, 2000	A-614-00	Do both reports constitute reasons which do not have to be shared with the subject of a danger opinion, or are they considered to be summaries that have to be disclosed to the subject of a danger opinion prior to a decision under subsection 70(5) and 53, assuming reasons are necessary?	The appeal is allowed per consent.
IMM-3976-99 Gibson J. November 10, 2000	A-710-00	With application to the facts before the Trial Division on these applications for judicial review, does the phrase “valid immigrant visa” in paragraph 70(2)(b) of the Immigration Act, mean a “visa” within the meaning of that term assigned by subsection 2(1) of the Act, that is to say, a document issued or stamp impression made on a document by a visa officer, which, at the time the visa holder sought landing, had not expired, or does the expression “valid immigrant visa” in paragraph 70(2)(b) comprehend only such a visa in relation to which, in the opinion of a senior immigration officer or adjudicator, all essential conditions were present for its issuance at the time of its issuance?	Discontinued
IMM-2145-99 MacKay J. July 07, 2000	A-797-00 August 29, 2001	Is an applicant for admission as a permanent resident, who plans to accept an approved family business offer assuring his or her employment, after having the benefit of the application of assisted relative provisions and the Family Business Offer Guidelines, required to meet the assessment established in accord with Schedule I of the <i>Immigration Regulations, 1978</i> , including the requirement of assessment under Factor 4 of Schedule I for any occupation other than that specified in the approved family business offer?	Dismissed by order following status review.
IMM-2674-99 Muldoon J. July 05, 2000	A-453-00 Desjardins J.A. Linden J.A. Pelletier J.A. (Reasons)	In applying s. 69.3(5) of the <i>Immigration Act</i> , how should the terms “could have been based” be interpreted and applied?	Appeal dismissed See reasons

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	July 3, 2002 2002 FCA 281		
IMM-417-00 Teitelbaum J. October 24, 2000		Are reasons required for a danger determination under subsection 70(5), and if so, are there reasons in this case? Does the DANGER TO THE PUBLIC MINISTERIAL OPINION REPORT have to be disclosed to the subject of a danger opinion under subsection 70(5) before a decision is made?	No appeal filed
IMM-29-97 Rothstein J. May 7, 1997	A-363-97 Isaac J.A. Létourneau J.A. (reasons) McDonald J.A.	Does the execution of a removal order against a person subject to a probation order containing a direction to report to a probation officer on a specific periodic basis or as required by the probation officer, directly result in a contravention of an order made by a judicial body in Canada for purposes of paragraph 50(1)(a) of the <i>Immigration Act</i> ?	No
IMM-4558-99 Dawson J. October 11, 2000	A-671-00	In the exercise of its discretion under subsection 69.3(5) of the <i>Immigration Act</i> , is the Refugee Division permitted to consider evidence that was not before the original panel that would support the applicant's refugee claim?	Discontinued
IMM-4184-99 Dubé J. September 26, 2000	A-619-00 Desjardins J.A. Décary J.A. Noël J.A. February 21, 2002	Are a visa officer's notes concerning an interview with an applicant, as entered in CAIPS, evidence of what took place at the interview, in the absence of an affidavit from the visa officer attesting to the truth of what he or she recorded as having been said at the interview?	On consent, decision of visa officer quashed.
IMM-3529-99 McKeown J. September 25, 2000	A-633-00	Are reasons required if an application for landing is refused pursuant to s.46.04(8) of the <i>Immigration Act</i> , R.S.C. 1985, c.I-2?	Discontinued
IMM-4424-99 Gibson J.	A-627-00	What is the appropriate standard of review of a decision of the Convention Refugee Determination Division to deny a request for an adjournment that is not governed by subsection 69(6) of the <i>Immigration Act</i> and, if that standard is	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
October 2, 2000		reasonableness simpliciter, was any irrelevant consideration taken into account by the Motions judge in determining that the Convention Refugee Determination Division erred in a reviewable manner against that standard in failing to grant an adjournment on the facts of this matter?	
IMM-428-00 Teitelbaum J. September 18, 2000		Is the visa officer required to examine the applicant's experience in his intended occupation gained prior to the applicant meeting the employment requirements of that intended occupation?	No appeal filed
IMM-3288-99 Pelletier J. September 14, 2000	A-603-00	Does the decision of the Supreme Court of Canada in <i>Baker v. Canada</i> require that reasons be provided where the Minister or her Delegate form the opinion that an individual is a danger to the public pursuant to paragraph 46.01(1)(e) of the <i>Immigration Act</i> ?	Discontinued
IMM-4185-99 Heneghan J. September 21, 2000	A-626-00	Can young men, targeted for death under the Canon of Leke, form a particular social group in the definition of Convention refugee?	Discontinued
IMM-1256-99 Heneghan J. September 20, 2000	A-604-00 Rothstein J.A. Evans J.A. (Reasons) Malone J.A. November 1, 2001 2001 FCA 331	Should a PCDO be required to comment on case specific documents or documents which are specific to the applicant in making his or her decision? Answer: A PCDO is not required to comment on case specific documents that lack probative value, even if they relate to the applicant.	See answer below question.
IMM-4544-99 Heneghan J.		Are a visa officer's notes concerning an interview with an applicant, as entered in CAIPs notes, evidence of what took place at the interview, in the absence of an affidavit from the visa officer attesting to the truth of what he or she	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
October 26, 2000		recorded as having been said at the interview?	
IMM-1112-99 Teitelbaum J. November 02, 2000	A-711-00 Stone J.A. Evans J.A. (Reasons) Malone J.A. March 1, 2002 2002-FCA-89	<p>Is a simple finding that a refugee claimant is not a credible witness sufficient to trigger the application of subsection 69.1(9.1) of the <i>Immigration Act</i>?</p> <p>Answer: Whether a finding that a refugee claimant is not a credible witness triggers the application of subsection 69.1(9.1) depends on an assessment of all the evidence in the case, both oral and documentary. In the absence of any credible or trustworthy evidence on which each Board member could have determined that the claimant was a Convention refugee, a finding that the claimant was not a credible witness will justify the conclusion that the claim lacks any credible basis.</p>	See answer below question.
IMM-5975-99 Simpson J. October 30, 2000	A-699-00 Stone J.A. Evans J.A. Sharlow J.A. (Reasons) April 24, 2002 2002 FCA 148	Should the motion to reopen the Applicants' refugee claims following the Board's decision that the Applicants had abandoned their claims have been heard by two members of the Board pursuant to section 69.1(7) of the <i>Immigration Act</i> , R.S.C. 1985, c. I.02, or pursuant to the rules of natural justice?	<p>Question answered in <i>Faghihi v. Canada</i>, [2000] 1 F.C. 249.</p> <p>Appeal proceeded and allowed on basis that Board failed to designate a representative for the minor child.</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2335-99 MacKay J. August 29, 2000		Does an adjudicator, in conducting an inquiry to determine whether a person concerned is one within paragraph 19(1)(c.1)(i) of the <i>Immigration Act</i> , have a duty to inquire whether a reported conviction of the person in another country was appealed and, if so, whether the outcome was successful and, whether a reported conviction was for the offence reported or a lesser offence?	No appeal filed
IMM-5330-99 Tremblay-Lamer J. August 31, 2000	A-544-00	Is it open to a Post-Determination Claim Officer (PDCO) to find a refugee claimant seeking landing as a member of the Post-Determination Refugee Claimants in Canada (PDRCC) class not to be credible, where the Refugee Division, after a full oral hearing into the claim, has already found the same claimant to be credible?	Discontinued
IMM-5331-99 Tremblay-Lamer J. August 31, 2000	A-543-00	In the absence of new evidence, arguments or submissions, is it open to a Post-Determination Claim Officer (PDCO) on an application by a refugee claimant for landing as a member of the Post-Determination Refugee Claimants in Canada (PDRCC) class to revisit and reverse findings of fact tending to show risk already made by the Refugee Division with respect to that claimant after a full oral hearing into the claim?	Discontinued
IMM-742-99 Teitelbaum J. December 02, 1999	A-818-99 Létourneau J.A. (Motifs) Desjardins J.A. Létourneau J.A. Noël J.A. Le 28 février 2001	[Not translated] Est-ce que la Section d'appel de l'Immigration de la Commission de l'immigration et du statut de réfugié peut, à la demande d'un résident permanent faisant l'objet d'un avis du ministre selon lequel il constitue un danger pour le public au Canada, déclarer inopérant à son endroit le paragraphe 70(5) de la <i>Loi sur l'immigration</i> à la lumière de l'article 15 de la Charte canadienne des droits et libertés?	Appeal dismissed on the grounds of mootness.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	2001 FCA 44		
IMM-6496-98 Gibson J. December 10, 1999	A-850-99 Sharlow J.A.(reasons) Rothstein J.A. Malone J.A. March 7, 2001 2001 FCA 49	<p>Does the respondent breach the duty of fairness owed to the person against whom a danger to the public in Canada opinion is reached pursuant to subsection 70(5) of the <i>Immigration Act</i> if a “Request For Minister’s Opinion” summary report and a “Danger To The Public Ministerial Opinion Report”, or equivalents substantially similar to those at issue in this matter, form part of the materials put before the respondent’s delegate who issues the opinion and those reports have not been shared with the person affected and that person has not been given a reasonable opportunity to respond, or if he or she has, the response is not also put before the respondent’s delegate without further analysis or commentary?</p> <p>The Federal Court of Appeal reworded the question as follows for the sake of brevity:</p> <p>Is the Minister's duty of fairness breached when a completed "Request for Minister's Opinion" and a "Ministerial Opinion Report" completed as far as the signature of the reviewing officer and senior analyst, or their equivalents, form part of the material considered by the Minister in rendering a danger opinion under subsection 70(5) or subsection 46.01(1)(e)(iv), and the person who is the subject of the reports was not given an opportunity to read and respond to them before the danger opinion was rendered?</p>	Appeal dismissed. Yes.
IMM-2394-98 Dubé J. June 11, 1999	A-390-99 Linden J.A. (reasons) Evans J.A. Sharlow J.A. October 3, 2000	May a panel of the Board “adopt the same reasoning as another panel” faced with the same documentary evidence as a basis for finding the existence of an internal flight alternative in the same country?	Yes. See reasons.
IMM-169-98 IMM-170-98 Rothstein J.	A-149-99 Isaac J.A. Létourneau J.A.	1) In a judicial review of a decision of the Minister of Citizenship and Immigration under paragraph 53(1)(d) of the <i>Immigration Act</i> , that the applicant constitutes a danger to the public in Canada, does the Court have jurisdiction to determine the constitutional validity of paragraph 53(1)(d)?	Yes - See Gwala v. Canada [1999] 3 F.C. 404.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
February 11, 1999	McDonald J.A. (reasons) October 5, 2000	2) Does the determination by the Minister under paragraph 53(1)(d) of the <i>Immigration Act</i> ("Act") that a Convention refugee is a danger to the public in Canada that includes an assessment of the risk of returning the Convention refugee to the country from which he sought refuge and a balancing of the danger to the public in Canada against the risk to the Convention refugee conform to the requirements of fundamental justice under section 7 of the <i>Charter of Rights and Freedoms</i> .	Yes
IMM-4932-97 Dubé J. September 8, 1998	A-526-98 Décary J.A. (reasons) Sexton J.A. Evans J.A. March 13, 2000	May an applicant re-apply for admission to Canada of his spouse as a member of the family class under s. 4(3) of the Immigration Regulations on the ground of a change of circumstances where a previous application by him has been denied on the ground that she entered into the marriage primarily for the purpose of gaining admission to Canada and not with the intention of residing permanently with her spouse? Re-worded by C.A. to read: Does the Appeal Division have the authority to summarily dismiss an appeal when the appellant seeks to re-litigate, on essentially the same evidence, an issue which the Appeal Division has already decided?	Yes
IMM-3846-96 IMM-566-97 Gibson J. March 20, 1998	A-201-98 Strayer J.A. Isaac J.A. Sexton J.A. (reasons) May 12, 2000	1. Where an individual has been landed in Canada on the basis that he or she has a “credible basis” to a Convention refugee claim against a particular country, and faces removal to that country without the risk that he or she faces on removal having been assessed in a manner that respects the principles of natural justice and fundamental justice, may a Court that is conducting a judicial review of the removal decision affecting the individual have regard to evidence respecting such risk that was not before the federal board, commission or other tribunal that made the removal decision? 2. Where an individual has been landed in Canada on the basis that he or she has a “credible basis” to a Convention refugee claim against a particular country, is a risk assessment and determination conducted in	Not answered Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		accordance with the principles of natural justice and fundamental justice a condition precedent to a valid determination to remove the individual to that country? If so, on the facts of this matter, did the process by which the respondent formed the opinion that the applicant constitutes a danger to the public in Canada constitute or incorporate such a risk assessment and determination?	Yes
IMM-6224-00 Campbell J. December 18, 2000	A-830-00 Rothstein J.A. (Reasons) Sexton J.A. Evans J.A. June 25, 2001 2001 FCA 222	Can a person who is the subject of a conditional departure order or an effective departure order be detained for reason of removal from Canada?	Appeal Dismissed
IMM-207-97 McGillis J. February 19, 1998	A-138-98 Strayer J.A. Sexton J.A. (reasons) Evans J.A. March 23, 2000	Does the failure of a Post Claim Determination Officer to consider a request to extend the time limits prescribed in subsections 11.4(3), (4) and (5) of the <i>Immigration Regulations, 1978</i> , prior to making a decision on a deemed application for landing as a member of the Post Determination Refugee Claimants in Canada class, constitute a breach of an unsuccessful refugee claimant's rights under section 7 of the <i>Charter</i> ?	Appeal dismissed. Insufficient fact base in order to answer question.
IMM-3316-98 Sharlow J. July 9, 1999	A-452-99 Richard C.J. Décary J.A. (reasons) Noël J.A. November 16, 2000	For the purpose of the <i>Immigration Act</i> , is a deportation order against a person executed when the Minister causes that person to be removed from Canada while the deportation order is the subject of a statutory stay?	No
IMM-1061-97	A-283-98	Is a visa officer under a duty to question the reasonableness of the Minister's decision made pursuant to section	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
Gibson J. April 20, 1998	Stone J.A. (reasons) Evans J.A. Malone J.A. May 3, 2000	19(1)(c.1)(i) where on the face of the record the decision may be unreasonable?	
IMM-5202-97 Reed J. August 21, 1998	A-525-98 Décary J.A. (reasons) Robertson J.A. Noël J.A. October 26, 1999	<ol style="list-style-type: none"> 1. Is a reasonable apprehension of bias demonstrated when the Refugee Division does not notify the Minister pursuant to s. 69(5) [sic - should be 69.1(5)] of the <i>Immigration Act</i> or Rule 9(2) of the <i>Convention Refugee Determination Rules</i> that a <i>Section E or F of Article 1</i> (exclusion) issue is raised in the context of a refugee hearing. 2. Do the Ministerial exclusion issue notification provisions set out in the <i>Immigration Act</i> at s. 69(5) [sic - should be 69.1(5)] and the <i>Convention Refugee Determination Rules</i> at s. 9(2) & (3) exist for the sole benefit of the Minister? If yes, might the failure to notify the Minister result in any prejudice to the refugee claimant? If no, does a failure to notify the Minister in accordance with these sections constitute an error of law regardless of the result of the CRDD decision or the degree of prejudice to the refugee claimant. 	See reasons.
IMM-5272-97 Cullen J. March 5, 1999	A-152-99 Létourneau J.A. Sexton J.A. Malone J.A. (reasons) December 21, 2000	Does paragraph 19(1)(c.2) of the <i>Immigration Act</i> in relation to a foreign national, infringe ss. 2(d) of the <i>Charter</i> and if so, is the infringement demonstrably justified in a free and democratic society under section 1 of the <i>Charter</i> ?	No
IMM-2511-97 Rothstein J. April 30, 1998	A-321-98 Létourneau J.A. (reasons) Noël J.A. Malone J.A. February 22, 2000	Does the making of a public complaint about widespread corrupt conduct by customs and police officials to a regional governing authority, and thereafter, the complainant suffering persecution on this account, when the corrupt conduct is not officially sanctioned, condoned or supported by the state, constitute an expression of political opinion as that term is understood in the definition of Convention refugee in subsection 2(1) of the <i>Immigration Act</i> ?	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-923-97 Dubé J. February 16, 1998	A-110-98 Richard C.J. Desjardins J.A. Décary J.A. (reasons) June 01, 2000	La Section du Statut doit-elle tenir compte de l'article 3 de la Convention sur la torture relativement à l'expulsion, le refoulement ou l'extradition d'une personne dans le but de déterminer si un revendicateur est un réfugié au sens de la Convention?	No
IMM-2158-97 MacKay J. November 10, 1997	A-888-97 Evans J.A. (reasons) Stone J.A. Isaac J.A. January 8, 2001	Where a Convention refugee in Canada is subject to an Immigration Inquiry in relation to allegations that he has committed an act or omission outside Canada that constitutes a war crime or a crime against humanity within paragraph 19(1)(i) of the <i>Immigration Act</i> , and provincial legal aid has committed some, but not adequate, funding for the pre-hearing preparations by counsel, is either of the respondent Ministers, required to fund services of counsel for the refugee as a matter of law, in particular in light of s. 7 of the <i>Canadian Charter of Rights and Freedoms</i> ?	No
IMM-4700-97 Rothstein J. August 31, 1998	A-503-98 Evans J.A.(reasons) Stone J.A. Isaac J.A. January 8, 2001	Does Schedule I of the <i>Immigration Regulations</i> , 1978, SOR/78-172, require that 16 units of assessment must be awarded to an applicant with a second- or third-level university degree, even if the applicant has not provided evidence of a first-level university degree requiring at least three years of full time study?	Yes
IMM-3380-96 Jerome A.C.J. December 29, 1997	A-19-98 Stone J.A. (reasons) Isaac J.A.	1. In an application for judicial review of a decision concerning a person's admissibility under s.19(1)(l) of the <i>Immigration Act</i> , can the Court consider the issue of the Ministerial exemption contained in that section when this issue has not been raised by either party before the tribunal?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	Evans J.A. January 11, 2001	<p>2. If the answer is yes, is a person required to make a written request to the Minister in order to satisfy the Minister that his/her admission would not be detrimental to the national interest and is the Minister required to provide written reasons for her decision?</p> <p>3. Do sections 19(1)(l) and 19(1.1) of the <i>Immigration Act</i> contain a rebuttable presumption?</p>	<p>No answer required.</p> <p>No</p>
IMM-4481-99 Rouleau J. January 24, 2001	A-47-01	Was there an obligation to disclose and share the ministerial opinion report and/or the request for the Minister's opinion to the Applicant and give him an opportunity to respond before the Minister's delegate made his decision under either subsection 70(5) or paragraph 46.01(1)(e) of the <i>Immigration Act</i> ?	Discontinued
IMM-754-00 Pinard J. January 24, 2001	A-61-01 Décary J.A. (Reasons) Noël J.A. Pelletier J.A. April 18, 2002 2002 CAF 143	Lors d'une audience <i>de novo</i> , la CISR respecte-t-elle les principes de la justice naturelle, quand elle laisse au dossier d'un revendicateur, les transcriptions, les preuves et la décision rendue lors d'une première audience, malgré une ordonnance de la Cour fédérale du Canada qui a ordonné une seconde audience devant un panel nouvellement constitué?	L'appel sera rejeté. Voir les motifs du jugement.
IMM-192-00 Dubé J. January 23, 2001	A-63-01 Strayer J.A. Sexton J.A. (Reasons) Sharlow J.A. February 28, 2002 2002-FCA-79	<p>Does the Immigration Officer have the authority under subparagraph 2(1)(b)(i) to determine the quality of the attendance of an alleged "dependent son" enrolled as a full-time student in a program?</p> <p>Answer: Under subparagraph 2(1)(b)(i) of the <i>Immigration Regulations</i> a Visa Officer has authority to determine whether the alleged "dependent son" has been enrolled and in attendance as a full-time student in an educational program in a genuine, meaningful and <i>bona fide</i> respect.</p>	See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2932-99 MacKay J. February 9, 2001	A-104-01 Rothstein J.A. Sexton J.A. Evans J.A. (Reasons) April 26, 2002 2002 FCA 153	<p>In considering whether there was “other sufficient evidence on which (a positive Convention refugee determination) was or could have been based” under subsection 69.3(5), can the Refugee Division take into account evidence submitted by the Minister under an application to reconsider and vacate under subsection 69.2(2)? If so, can the Refugee Division take into account evidence which the individual whose Convention refugee status is at issue wishes to submit to respond to the Minister’s evidence?</p> <p>Note: Same question certified in <i>Maheswaran</i> and Sayed</p> <p>Answer: In considering whether there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based” under subsection 69.3(5), the Refugee Division can take into account evidence submitted by the Minister on an application to reconsider and vacate under subsection 69.2(2) for the purpose of identifying and discounting evidence that was tainted by the misrepresentations. The individual concerned may not submit evidence at a vacation hearing that was not before the Board at the determination hearing, for the purpose of establishing under subsection 69.3(5) that there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based”.</p>	See answer below question.
IMM-3358-99 Hansen J. February 2, 2001	A-75-01	Does the failure to provide the person against whom a danger opinion is sought with the Ministerial Opinion Report ("MOR") and the Request for Minister’s Opinion ("RMO") and an opportunity to respond prior to the issuance of the Minister’s opinions pursuant to subsection 70(5) and paragraph 53(1)(a) of the Act constitute a breach of the duty of fairness owed by the Minister.	Discontinued
IMM-1203-00 Blanchard J.	A-118-01	Is there an obligation to disclose and share the “Request for Minister’s opinion” form and/or “Danger to the Public Ministerial Opinion Report” with the applicant and give him an opportunity to respond before the Minister’s delegate	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
February 21, 2001		makes his decision under subsection 70(5) and subparagraph 46.01(1)(e) of the <i>Immigration Act</i> , R.S.C. 1985 c. I-2?	
IMM-2461-00 Dubé J. February 19, 2001 2001 FCT 94		Did the Refugee Division err in law or breach the principles of natural justice in that it did not put alleged contradictions (on which the Refugee Division relied to find that the claimant's evidence was not credible) to the claimant or confront the claimant?	No appeal filed
IMM-843-98 Nadon J. November 5, 1999	A-752-99 Létourneau J.A. (reasons) Desjardins J.A. Noël J.A. March 1, 2001 2001 CAF 43	Does the Canada-Quebec Accord limit the jurisdiction of the visa officer to question the source of funds of a Quebec-destined applicant for permanent residence in Canada, in order to establish the applicant's admissibility?	No
IMM-1399-00 Heneghan J. March 22, 2001 2001 FCT 222	A-217-01	Should Ministerial Reports prepared under section 70(5) of the <i>Immigration Act</i> be taken, by inference, to be the reasons for the Minister's Delegate's opinion?	Discontinued
IMM-946-00 Nadon J. March 26, 2001 2001 FCT 243	A-229-01 Rothstein J.A. Noël J.A. Malone J.A. (Reasons)	Where the Immigration Appeal Division of the Immigration and Refugee Board (the "IAD") has allowed an appeal under s. 77(3)(b) of the <i>Immigration Act</i> from a refusal of a sponsored application for landing, which refusal was based on the sponsored applicant's inadmissibility to Canada under s. 19(1)(c.2) of the <i>Immigration Act</i> , does s. 77(5) of the <i>Immigration Act</i> prohibit the visa officer or immigration officer who has subsequently resumed review of the sponsored	Appeal dismissed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	January 14, 2002 2002 FCA 8	application from refusing the sponsored application on the basis of the sponsored applicant’s inadmissibility to Canada under s. 19(1)(c.2) of the <i>Immigration Act</i> based on evidence that was not before the IAD when it allowed the appeal?	
IMM-2596-00 Gibson J. March 22, 2001 2001 FCT 217	A-219-01 Décary J.A. Rothstein J.A. Evans J.A. May 21, 2002	In relation to a determination under s. 2(3) of the <i>Immigration Act</i> , does a finding of “compelling reasons” require a finding of “appalling” or “atrocious” past persecution?	Appeal dismissed. No appeal book filed.
IMM-4742-99 Nadon J. April 11, 2001 2001 FCT 315	A-255-01 Richard C.J. Décary J.A. (Reasons) Noël J.A. March 28, 2002 2002 FCA 125	<p>1. Were the findings of Officer Nappi manifestly unreasonable and incompatible with <i>Baker v. Canada</i> (M.C.I.), (1999) 2 S.C.R. 817, and in particular:</p> <ul style="list-style-type: none"> (i) did Ms. Nappi minimize the interests of the children and fail to apply the liberal standard required by the Supreme Court? (ii) was she entitled to doubt the good faith of the marriage which had produced the children? (iii) was she entitled to conclude that a commercial partner could ensure the continuation of the company and of the applicant’s family income without any evidence to this effect or discussion of this? (iv) was she entitled to rely on the fact that the applicant knew about his accusation when he engendered the children? <p>2. Is the mere mention of the children sufficient to fulfil the requirements of <i>Baker, supra</i>?</p> <p>3. Did <i>Baker, supra</i>, create a <i>prima facie</i> presumption that the children’s best interest should prevail, subject only to the</p>	<p>Not answered</p> <p>No</p> <p>No</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		<p>gravest countervailing grounds?</p> <p>4. Is the failure to deal with two of the children’s emotional illness consistent with the serious and respectful treatment of the children’s interest required by <i>Baker, supra</i>?</p> <p>5. When the Court sits in judicial review of a decision under subsection 114(2) of the <i>Immigration Act</i>, should it not only verify whether the decision maker considered the effects of a refusal on the applicant’s children, but go further and assess whether the consideration is adequate?</p> <p>6. In light of the Supreme Court’s decision in <i>Baker, supra</i>, what does proper consideration of the children’s interests mean? What does it mean, in fact, to be alert, alive and sensitive to the children’s interests?</p> <p>5. Is the fact that an applicant under subsection 114(2) of the <i>Immigration Act</i> faces an outstanding indictment for serious offences in a foreign country one of those “other considerations” or “other reasons” mentioned in paragraph 75 in <i>Baker, supra</i>, which might outweigh the children’s best interests?</p>	<p>Not answered</p> <p>Not answered</p> <p>Not answered</p> <p>The Minister can take into account the actions, past and present, of the person that requests the exception.</p>
IMM-6308-98 Heneghan J. April 6, 2001 2001 FCT 300	A-251-01	Should Ministerial Reports prepared under section 70(5) of the <i>Immigration Act</i> be taken, by inference, to be the reasons for the Minister’s Delegate’s opinion?	Discontinued
IMM-4082-00 Heneghan J.		1. Is the effect of the issuance of a danger opinion pursuant to subsection 70(5) of the <i>Immigration Act</i> to deprive the subject of the opinion of a statutory right of appeal only, or does it play a role in the subject’s loss of status and removal	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
April 19, 2001 2001 FCT 354		from Canada as well? 2. Should Ministerial Reports prepared under section 70(5) of the <i>Immigration Act</i> be taken, by inference, to be reasons for the Minister's Delegate's opinion?	
IMM-2502-00 Simpson J. April 11, 2001 2001 FCT 321	A-261-01 Rothstein J.A. (Reasons) Noël J.A. Malone J.A. 2001 FCA 388	Under Schedule 1 of the <i>Immigration Regulations, 1978</i> is it necessary for an applicant to have a first level university degree before he/she can be awarded points under subparagraph 1(e) of the Education factor for a second level degree? Answer: Under Schedule I of the <i>Immigration regulations, 1978</i> , it is not necessary for an applicant to have a first level university degree before he/she can be awarded points under paragraph 1(e) of the Education factor for a second level degree.	See answer below question.
IMM-5946-98 Nadon J. May 10, 2001 2001 FCT 460	A-316-01 Related file A-317-01 Décary J.A. (Reasons) Létourneau J.A. Pelletier J.A. September 8, 2003 2003 FCA 325	Question 1: Is the characterization of an act or omission as constituting an offence described in paragraphs 27(1)(a.1) and 27(1)(a.3) of the Immigration Act a question of fact or a question of law and, accordingly, what is the standard of judicial review applicable to this question? Question 2: Does the admission in evidence, and its consideration as credible and trustworthy, pursuant to sections 68(3) and 80.1(5) of the Immigration Act, of testimony pertaining to oral out-of-court statements made by a witness who refuses to disclose the identity of those making these statements and the notes pertaining thereto breach the principles of fundamental justice, and, more particularly, the right to a full answer and defence? Question 3:	See Reasons.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		Does incitement to murder, violence and genocide, in a context in which massacres are committed in a widespread or systematic way, but absent any evidence of a direct or indirect link between the incitement and the murders committed in a widespread or systematic way, constitute in itself a crime against humanity?	
IMM-3427-00 McKeown J. May 9, 2001 2001 FCT 453		Is the applicant persecuted by reason of his actual or imputed political opinion where the pretext for the treatment is political but the underlying motivation is one of extortion?	No appeal filed
IMM-4250-00 Pinard J. May 25, 2001 2001 FCT 515	A-347-01	Under subsection 46.04(8) of the <i>Immigration Act</i> , may an immigration officer refuse to grant landing to an applicant who submits a passport issued by his country of nationality if he believes that the passport was issued on the basis of false or contradictory identity documents or if he has reasonable doubts as to the applicant's identity?	Discontinued
IMM-1332-00 Muldoon J. June 22, 2001 2001 FCT 694	A-403-01 Linden J.A. Evans J.A. (Reasons) Malone J.A. June 21, 2002 2002 FCA 271	<p>1. Is the portion of section 19(1)(a)(ii) of the <i>Immigration Act</i> which provides for inadmissibility on the ground of disability of no force or effect under section 52 of the Charter and should it be severed from the <i>Immigration Act</i>?</p> <p>2. Is “more than normal” a legally acceptable measure of excessive demands under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i>? If so, what are the permissible criteria for the determination of normalcy?</p> <p>Answer: There is no statutory definition of excessive demands. In these circumstances, when cost is the issue, demands are excessive when they reasonably might be expected to exceed by a significant degree the average <i>per capita</i> health care costs incurred by that section of the Canadian population in the same age range as the visa applicant.</p> <p>3. Is an election to have or not to have elective surgery relevant in determining whether or not a medical opinion under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> is reasonable?</p> <p>Answer: Yes. However, a person cannot waive the right to publicly funded medical services that all permanent</p>	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		<p>residents possess. Evidence of an intention not to undergo a particular treatment must be weighed with all other relevant evidence in determining whether the person might reasonably be expected to make excessive demands on health services in Canada.</p> <p>4. Is the duty of fairness breached to a Manitoba sponsor of an immigrant and a Manitoba destined immigrant, when the Manitoba bonding program (if pertinent and applicable), is not disclosed to the sponsor and the applicant in the letter advising the applicant of a negative medical assessment and inviting the applicant to submit further information not already on the file?</p> <p>5. Is the ability to pay relevant or irrelevant to the question of excessive demand under subparagraph 19(1)(a)(ii) of the <i>Immigration Act</i> when there is a Manitoba sponsor of an immigrant and a Manitoba destined immigrant, in light of the Manitoba bonding program if there be such program which is both accessible and applicable in these circumstances?</p>	<p>No</p> <p>On the facts of this case, no.</p>
IMM-5500-99 Heneghan J. Nov. 22, 2000	A-744-00 Décary J.A. Noël J.A. Sharlow J.A. (Reasons) July 11, 2001 2001 FCA 235	<p>May the Minister form the opinion that a person constitutes a danger to the public in Canada pursuant to subsection 46.01(1) of the <i>Immigration Act</i> at any time before or after a Convention refugee claim is made by that person?</p> <p>(Heard with A-180-01 below)</p>	Yes
IMM-64-00 MacKay J. March 13, 2001	A-180-01 Décary J.A. Noël J.A. Sharlow J.A. (Reasons) July 11, 2001 2001 FCA 235	<p>May the Minister form the opinion that a person constitutes a danger to the public in Canada pursuant to subsection 46.01(1) of the <i>Immigration Act</i> at any time before or after a Convention refugee claim is made by that person?</p> <p>(Heard with A-744-00 above)</p>	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM- 6500-98 Pelletier J. March 10, 2000	A-197-00 Stone J.A.(Reasons) Rothstein J.A. Sexton J.A. June 06, 2001 2001 FCA 191	Does the analysis developed by the Supreme Court of Canada <i>R. v. Tran supra</i> in relation to the application of s. 14 of the <i>Charter</i> to criminal proceedings apply to proceedings before the CRDD, and in particular: 1. Must the interpretation provided to applicants be continuous, precise, competent, impartial and contemporaneous? 2. Must applicants show they have suffered actual prejudice as a result of a breach of the standard of interpretation before the Court can interfere with the CRDD’s decision. 3. Where it is reasonable to expect an applicant to do so, such as when an applicant has difficulty understanding the interpreter, must the applicant object to the quality of interpretation before the CRDD as a condition of being able to raise the quality of interpretation as a ground of judicial review?	Yes No Yes
IMM- 980-97 Teitelbaum J. June 11, 1999	A-651-99 Décary J.A. Létourneau J.A. (Reasons) Noël J.A. May, 14, 2001 2001 FCA 151	En vertu des articles 14 et 15 de la <i>Loi constitutionnelle de 1867</i> , le Gouverneur général peut-il nommer des juges de la Cour suprême qui agiront pour son compte et leur confier ses pouvoirs, attributions et fonctions, dont la faculté de donner la sanction royale?	Oui
IMM-6057-00 Dubé J. Sept. 26, 2001		What is the definition and the scope of the term “religion” used in the Convention refugee definition?	No appeal filed
IMM-5527-00 Muldoon J. August 30, 2001	A-512-01	3. Is the relationship of an adopted child to the natural parents legally relevant to the interpretation and application of “adopted” in <i>Immigration regulation 2(1)</i> ? 5. Is the principle in <i>Baker</i> , that interpretations of a statute which reflect the values of customary international law and	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
2001 FCT 971		treaty law binding on Canada are to be preferred, inapplicable to non-discretionary decisions or to the sponsorship of foreign resident children?	
IMM-4110-00 Teitelbaum J. August 2, 2001 2001 FCT 852		In an application for a student authorization, under what circumstances does the practice of “file stripping” by the visa office done before the delays to launch an application for judicial review constitute a ground for setting aside a decision?	No appeal filed
IMM-5686-00 Blais J. August 30, 2001 2001 FCT 976		Is it wrong for the IAD to consider the nature or circumstances regarding legal impediment when determining on a balance of probabilities whether sufficient humanitarian and compassionate considerations exist to warrant granting special relief pursuant to paragraph 77(3)(b) of the Act?	No appeal filed
IMM-2982-99 MacKay J. Sept. 06, 2001 2001 FCT 997	A-536-01 Linden J.A. Evans J.A. (Reasons) Malone J.A. June 18, 2002 2002 FCA 265	May a CRDD panel, in considering a refugee claim, consider as evidence, despite objection by the claimant, information recorded by a refugee hearing officer at a CRDD Rule 18 preliminary conference that does not result in expedited processing of the claim pursuant to s-s. 69(7) of the <i>Immigration Act</i> , when the information is provided to the panel, but not to the refugee claimant, in advance of the panel’s hearing?	Appeal dismissed. See Reasons. Question not answered
IMM-873-99 Reed J. April 17, 2000	A-288-00 Linden J.A. (Reasons) Noël J.A. Malone J.A. Oct. 11, 2001 2001 FCA 299	Are a visa officer’s notes concerning an interview with an applicant, as entered in CAIPs, evidence of what took place at the interview, in the absence of an affidavit from the visa officer attesting to the truth of what he or she recorded as having been said at the interview?	No

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6573-00 McKeown J. Oct. 3, 2001 2001 FCT 1090	A-613-01	Is a Post Claim Determination Officer assessing an application for membership in the Post-Determination Refugee Claimants in Canada Class under ss. 2(1) and 11.4 of the Immigration Regulations, 1978 required to disclose publicly available country conditions documentation, which are only released after the applicant has made its submission, to the applicant, and provide the applicant with an opportunity to respond to the documentation, prior to making a final decision on the application?	Discontinued
IMM-3424-00 Nadon J. August 20, 2001 2001 FCT 920		Was there an obligation to disclose and share the ministerial opinion report and/or the request for the Minister's opinion to the applicant and give him an opportunity to respond before the Minister's delegate made his decision under paragraph 46.01(1)(e) of the Immigration Act?	No appeal filed
IMM-3751-00 McKeown J. July 03, 2001 2001 FCT 742		<p>1. Is an immigration officer who is deciding a humanitarian and compassionate application entitled to consider the fact that the applicant knew about his uncertain immigration status when he engendered his Canadian-born child, insofar as it relates to the applicant's hardship?</p> <p>2. In light of the Supreme Court of Canada's decision in <i>Baker v. Canada</i> (MCI), [1999] 2 S.C.R. 817, what does it mean to be alert, alive and sensitive to the child's interests, and does this requirement shift the burden and impose a duty on the immigration officer to inquire about the child's interests, beyond what is submitted by the applicant?</p>	No appeal filed
IMM-2747-00 McKeown J. June 08, 2001 2001 FCT 635		Does an Immigration Officer have the authority under subparagraph 2(1)(b)(i) of the <i>Immigration Regulations</i> , 1978 to use quality of attendance as one of the measures of "attendance" when assessing an alleged "dependent son" who claims to have been enrolled and in attendance as a full-time student in a program?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-601-00 Tremblay-Lamer J. Sept. 24, 2001 2001 FCT 1043	A-33-02 Décary J.A. Létourneau J.A. Nadon J.A. (Reasons) April 7, 2003 2003 FCA 178	<p>1. Are the rules laid down by the Federal Court of Appeal in <i>Sivakumar v. Canada (Minister of Citizenship and Immigration)</i>, [1994] 1 F.C. 433, on complicity by association for purposes of implementing Article 1F(a) of the United Nations Convention Relating to the Status of Refugees, applicable for purposes of an exclusion under Article 1F(b) of the said Convention?</p> <p>2. If so, can a refugee status claimant's association with an organization responsible for perpetrating "serious non-political crimes" within the meaning of that expression in Article 1F(b) of the United Nations Convention Relating to the Status of Refugees entail the complicity of the claimant for purposes of applying the said provision simply because he knowingly tolerated such crimes, whether committed during or before his association with the organization in question?</p>	L'appel est rejeté. Voir les motifs du jugement.
IMM-4962-00 Pelletier J. Sept. 21, 2001 2001 FCT 1041	A-595-01 Décary J.A. (Reasons) Rothstein J.A. Evans J.A. November 28, 2002 2002 FCA 475	<p>Is the requirement that the best interests of children be considered when disposing of an application for an exemption pursuant to subsection 114(2), as set out in <i>Baker v. Canada (M.C.I.)</i>, [1999] 2 S.C.R. 817, satisfied by considering whether the removal of the parent will subject the child to unusual, undeserved or disproportionate hardship?</p> <p>Answer: The requirement that the best interests of the child be considered may be satisfied, depending on the circumstances of each case, by considering the degree of hardship to which the removal of a parent exposes the child.</p>	See answer below question.
IMM-6060-00 Dubé J. Sept. 25, 2001 2001 FCT 1047		In section 2.1 of the <i>Immigration Regulations</i> , does the term “genuine relationship of parent and child” refer to the current state of a relationship between an adoptive parent and child when assessed by a visa officer or does it reflect the future state of that relationship?	No appeal filed
IMM-2998-00 Campbell J.	A-3-01 Desjardins J.A.	1. Is it an error in law for the Refugee Division to find that the minor claimant had a well-founded fear of persecution on the grounds that he was a member of particular social group being “minor child of Chinese family who is expected	Yes

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
December 19, 2000	(Reasons) Décary J.A. Sexton J.A. October 18, 2001 2001 FCA 306	to provide support for other family members?” 2. If the answer to question #1 is “no”, did the Refugee Division err in law in finding a state’s inability to protect when the minor claimant, alleging persecution by his parents, did not seek state protection?	Not answered
IMM-4390-99 Gibson J. April 12, 2001	A-270-00 Linden J.A. Noël J.A. Malone J.A. (Reasons) October 19, 2001 2001 FCA 312	The Minister of Citizenship and Immigration having published the 1992 Medical Officers’ Handbook and having continued to distribute it on request at all times relevant to the decision that is the subject of this application for judicial review: (a) does the Minister breach the duty of fairness owed by her to the applicant by relying to the detriment of the applicant on material that modifies the content of the Handbook in assessing the medical condition of a dependant of the applicant without publishing or disclosing that material to the applicant where no specific request for any such material is made by or on behalf of the applicant; and (b) does the publication and continued distribution of the Handbook by or on behalf of the Minister give rise to a legitimate or reasonable expectation on the part of the applicant that he can rely on the Handbook as a guideline without making a specific request for any material that might modify it in a manner relevant to the applicant’s application for landing?	(a) No (b) No
IMM-5421-00 McKeown J. October 23, 2001 2001 FCT 1150	A-645-01	When deciding whether a person is a member of the post-determination refugee claimants in Canada class, is a PCDO required, by the principles of procedural fairness, to disclose his reasons for the decision to the person concerned for comment prior to his decision being considered final?	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2788-99 Gibson J. November 2, 2000	A-708-00 Linden J.A. Noël J.A. Malone J.A. (Reasons) October 19, 2001 2001 FCA 313	<p>The Minister of Citizenship and Immigration having published the 1992 Medical Officers' Handbook and having continued to distribute it on request at all times relevant to the decision that is the subject of this application for judicial review:</p> <p>(a) does the Minister breach the duty of fairness owed by her to the applicant by relying to the detriment of the applicant on material that modifies the content of the Handbook in assessing the medical condition of a dependant of the applicant without publishing or disclosing that material to the applicant where no specific request for any such material is made by or on behalf of the applicant; and</p> <p>(b) does the publication and continued distribution of the Handbook by or on behalf of the Minister give rise to a legitimate or reasonable expectation on the part of the applicant that he can rely on the Handbook as a guideline without making a specific request for any material that might modify it in a manner relevant to the applicant's application for landing?</p>	<p>No</p> <p>No</p>
IMM-4856-99 Heneghan J. July 7, 2000	A-457-00 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 14, 2001 2001 FCA 345	<p>Question 1: Should an applicant be given an opportunity to not only provide additional medical evidence but also respond to the conclusion that an applicant will place excessive demands on Canadian social services?</p> <p>Question 2: To what extent must the material on which the conclusion with regard to excessive demands has been based be disclosed to the applicant?</p> <p>Answer to question 2: If a visa applicant is informed of the medical diagnosis, prognosis, and the services likely to be required, and is advised that, in view of the medical condition, admission would impose excessive demands on medical or social services, fairness does not normally require further disclosure, at least where additional information is not requested.</p>	<p>Yes</p> <p>See answer below question</p>

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-6298-99 Pelletier J. November 14, 2001 2001 FCT 1237	A-678-01	<p>Where the fact that an applicant has applied for convention refugee status has been reported in the media in Canada, and the applicant makes a claim of refugee <i>sur place</i> as a result of that reporting, is it necessary for the applicant to prove</p> <p>a) that the media reports came to the attention of the authorities in the country in respect of whom the applicant alleges a well-founded fear of persecution and</p> <p>b) that the information contained in the media reports was sufficient to allow the authorities to identify the applicant</p> <p>In order to succeed with respect to the refugee <i>sur place</i> claim?</p> <p>Same question certified in: IMM-6299-99; IMM-6300-99 (A-673-01 discontinued); IMM-6301-99; IMM-6302-99 (A-674-01); IMM-6303-99; IMM-6304-99; IMM-6305-99 (A-675-01); IMM-6306-99 (A-676-01); IMM-6307-99 (A-677-01).</p>	Discontinued
IMM-4953-00 McKeown J. November 28, 2001 2001 FCT 1307	A-20-02	What is the scope and/or nature of the discretion of a removals officer in considering a request by a person under a valid removal order for deferral of removal in relation to an outstanding humanitarian and compassionate application?	Discontinued
IMM-6436-00 McKeown J. December 12, 2001 2001 FCT 1366	A-722-01 Stone J.A. Sharlow J.A. (Reasons) Malone J.A. December 10, 2002	<p>Do reasons for a decision of an application under s.114(2) of the <i>Immigration Act</i> have to be made contemporaneously with the decision or can the reasons be made subsequent to the decision?</p> <p>Answer: The reasons for a decision under subsection 114(2) of the <i>Immigration Act</i> do not have to be made contemporaneously with the decision.</p>	See answer below question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	2002 FCA 492		
IMM-2807-00 Gibson J. February 14, 2002 2002 FCT 167	A-141-02 Strayer J.A. Sexton J.A. Pelletier J.A. (Reasons) January 28, 2003 2003 FCA 42	Does the exclusion of a Convention refugee under Article 1F(a) of the <i>Refugee Convention</i> mean it has been established that there are reasonable grounds to believe that the refugee status claimant has committed offences at international law under section 19(1)(j) of the <i>Immigration Act</i> so that an Adjudicator conducting an inquiry into allegations made under section 19(1)(j) of the <i>Act</i> would be bound by the Convention Refugee Determination Division's exclusion under Article 1F(a) of the <i>Convention</i> ?	Appeal dismissed. See Reasons.
IMM-1705-01 Pinard J. March 19, 2002 2002 FCT 1294		In the case of a person or corporation who was declared to be acting as “agent” for a principal (such principal being a “transportation company” within the meaning of subsection 2(1) of the <i>Immigration Act</i>) at the time the “vehicle” (as also defined in subsection 2(1) of the <i>Immigration Act</i>) was brought to Canada, does that agent remain a transportation company, and therefore liable as such under Part V of the <i>Immigration Act</i> , when and from the time his mandate is terminated by reason of bankruptcy, liquidation or receivership of the principal, an agreement between the principal and the agent, or the principal is no longer responding and providing instructions to the agent in respect of his mandate?	No appeal filed
IMM-1092-01 Dawson J. March 27, 2002 2002 FCT 345	A-198-02	Can a refugee claim succeed on the basis of a well founded fear of persecution for reason of membership in a particular social group that is a family, if the family member who is the principal target of the persecution is not subject to persecution for a Convention reason?	Discontinued
IMM-2105-00 Lemieux J. March 21, 2002 2002 FCT 306		Question 1: In the exercise of its discretion under subsection 69.3(5) of the <i>Immigration Act</i> , is the Refugee Division permitted to consider evidence that was not before the original panel that would support the applicant's refugee claim? Question 2: Does the panel of the refugee Division which decides to vacate a previous refugee determination have the power to decline to reconsider the original refugee determination and to leave the claimant, in light of the vacating of the previous decision, as a person without a refugee determination whose claim would be determined by the Board in the normal course?	No appeal filed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-2240-01 Blanchard J. April 9, 2002 2002 FCT 389		Do the principles of procedural fairness require that the PCDO disclose notes she or he made in relation to her or his risk assessment decision to the person concerned for comment prior to the decision on the PDRCC application being considered final?	No appeal filed
IMM-1959-01 Heneghan J. April 11, 2002 2002 FCT 395		Is it a relevant consideration that the initial capital that an investor-applicant uses to accumulate net worth has to be from the personal endeavours of the investor-applicant?	No appeal filed
IMM-2932-00 Blais J. November 28, 2000	A-104-01 Rothstein J.A. Sexton J.A. Evans J.A. (Reasons) April 26, 2002 2002 FCA 153	<p>In considering whether there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based” under subsection 69.3(5), can the Refugee Division take into account evidence submitted by the Minister under an application to reconsider and vacate under subsection 69.2(2)? If so, can the Refugee Division take into account evidence which the individual whose Convention refugee status is at issue wishes to submit to respond to the Minister’s evidence?</p> <p>Answer: In considering whether there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based” under subsection 69.3(5), the Refugee Division can take into account evidence submitted by the Minister on an application to reconsider and vacate under subsection 69.2(2) for the purpose of identifying and discounting evidence that was tainted by the misrepresentations. The individual concerned may not submit evidence at a vacation hearing that was not before the Board at the determination hearing, for the purpose of establishing under subsection 69.3(5) that there was “other sufficient evidence on which a positive Convention refugee determination was or could have been based”.</p>	See answer below question.
IMM-1087-99 Heneghan J. June 27, 2000	A-223-00 Richard C.J. Evans J.A. (Reasons) Malone J.A.	Should a visa officer’s decision to refuse an application for entry into Canada be quashed where a visa officer made an error in the assessment, but where the error would still not provide the Applicant with sufficient points for a successful application?	See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	February 7, 2002 2002 FCA 55	Answer: When on an application for judicial review of a visa officer’s refusal to issue a visa the Court concludes that the officer committed a reviewable error and awarded the applicant too few units of assessment, the Court may in its discretion refuse to set the decision aside if, in its view, the error could have made no difference to the officer’s decision because, even after the error was corrected, the applicant still had insufficient points to be issued a visa.	
IMM-2639-99 Dawson J. February 28, 2001 See also: IMM-3997-99 IMM-3998-99	A-173-01 Strayer J.A. Sexton J.A. Sharlow J.A. (Reasons) March 01, 2002 2002 FCA 80	1) Did the definition of “transportation company”, prior to its amendment by <i>An Act to amend the Immigration Act and other Acts in consequences thereof</i> , S.C. 1992, c. 49, apply to include companies engaged solely in the transportation of cargo, not passengers? 2) What legal principles govern the determination of whether an entity is an “agent” of a “transportation company” within the meaning of subsection 2(1) of the <i>Immigration Act</i> , R.S.C. 1985, c. I-2, as now amended?	No Not answered.
IMM-425-01 Tremblay-Lamer J. May 6, 2002 2002 FCT 512	A-309-02 Décary J.A. (Reasons) Noël J.A. Pelletier J.A. January 27, 2003 2003 FCA 39	1. For the purposes of Article 1F(a) of the United Nations Convention relating to the status of refugees concerning a crime against humanity, can military members or paramilitary members, who were not taking part in hostilities at the time they were persecuted or victims of inhumane acts, be considered a "civilian population" within the meaning of that term in the following provisions: (a) Paragraph 6(c) of the Charter of the International Military Tribunal (following the London Agreement on August 8, 1945); (b) Paragraph II(1)(c) of Law No. 10 dated December 20, 1945, of the Control Council for Germany.	Appeal dismissed. Question not answered.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		(c) Article 5 of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991; (d) Article 3 of the Statute of the International Tribunal For Rwanda; (e) Paragraph 7(1) of the Rome Statute of the International Criminal Court?	
IMM-5951-00 Rothstein J.A. (<i>ex officio</i>) August 22, 2002 2002 FCT 870	A-502-02 Stone J.A. Evans J.A. (Reasons) Sharlow J.A. May 13, 2003 2003 FCA 225	Do the words “the chances of the particular immigrant and his dependants of becoming successfully established in Canada” in subsection 11(3) of the <i>Immigration Regulations, 1978</i> include retirees whose only economic criterion is having sufficient assets to sustain themselves?	No
IMM-6058-99 Pinard J. November 13, 2002 2002 FCT 1165	A-649-02 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 422	Is an applicant’s wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada? Answer: Medical officers are not obliged to consider these factors.	See answer below question.
IMM-4235-01 MacKay J. January 24, 2002 2002 FCT 82	A-642-01 Linden J.A. Noël J.A. (Reasons) Sharlow J.A. November 4, 2002 2002 FCA 426	Is an applicant’s right to apply to the Federal Court for judicial review of a visa officer’s decision a substantive right for which the applicant is entitled to a full hearing by the Court on the merits of the application, without regard to any other rights the applicant may have before the Immigration Appeal Division?	Appeal dismissed for mootness.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-5795-01 Noël J. December 9, 2002 2002 FCT 1274	A-8-03 Linden J.A. Evans J.A. (Reasons) Malone J.A. September 30, 2003 2003 FCA 359	<p>When after the completion of a hearing, a Board determines that a claimant is not a Convention refugee, and provides its reasons orally in chambers, which are later reduced to writing and sent, along with the written notice of decision to the claimant, has the Board complied with ss. 69.1(9) & 69.1(11)(a) of the <i>Immigration Act</i> R.S.C. 1985 c.1-2 and, is the decision final as of the date it is rendered in chambers?</p> <p>Answer: If the Board reserves its decision at the end of a refugee determination hearing, it renders its decision and becomes <i>functus officio</i> when it signs written reasons for decision and transmits them to the registrar.</p>	See answer below question.
IMM-2355-01 Dawson J. December 17, 2002 2002 FCT 1303	A-38-03 Linden J.A. Sexton J.A. (Reasons) Malone J.A. January 30, 2004 2004 FCA 49	<p>1. Is the duty of fairness breached when a visa officer refuses to allow counsel to attend at the interview of an applicant seeking admission to Canada as a Convention refugee seeking resettlement?</p> <p>2. What legal rights or obligations must a Convention refugee possess outside of Canada in order to be considered re-settled so as to have a “durable solution”?</p>	<p>Appeal allowed.</p> <p>1) Yes.</p> <p>2) Not answered.</p>
IMM-5340-00 Gibson J. August 8, 2002 2002 FCT 844	A-560-02 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 420	<p>Is an applicant’s wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada and is a determination by medical officers in this regard determinative or is the decision-maker in respect of the applicant’s application for permanent residence in Canada required to consider the reasonableness of the medical officers’ determination regarding “excessive demands” in the light of all the relevant material provided to the respondent by the applicant?</p> <p>Answer: An applicant’s wealth is not a consideration that a medical officer is legally required to consider when determining whether a person’s admission to Canada would cause or might reasonably be expected to cause excessive</p>	See answer below question.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
		demands on social services in Canada.	
IMM-5696-01 Kelen J. November 8, 2003 2002 FCT 1162	A-694-02 Rothstein J.A. (Reasons) Sexton J.A. Malone J.A. December 19, 2003 2003 FCA 482	<p>1. Where the Minister has unsuccessfully engaged a permanent resident in removal proceedings under a particular section of the <i>Immigration Act</i> for more than eight years, is it an abuse of process for the Minister to commence a new removal proceeding against the permanent resident on a ground available to the Minister to use for eight years?</p> <p>2. Does section 27(1)(a) of the <i>Immigration Act</i> permit exposure of a permanent resident to deportation on a ground that did not barr [sic] the person's admission to Canada? (i.e. Can the applicant be deported on the basis of a legislative provision that did not exist at the time of his admission to Canada as a permanent resident.)</p> <p>Answers:</p> <p>1. In the circumstances of this case, even though the Minister has unsuccessfully engaged a permanent resident in inadmissibility proceedings for more than eight years, it is not an abuse of process for the Minister to commence a new proceeding against the permanent resident on a different ground, even though that ground has been available to the Minister since February 1, 1993.</p> <p>2. Under paragraph 27(1)(a) of the <i>Immigration Act</i>, a permanent resident can be found inadmissible to Canada under clause 19(1)(f)(iii)(B) on the grounds that there are reasonable grounds to believe the permanent resident is or was a member of an organization that there are reasonable grounds to believe is or was engaged in terrorism, even if the membership ceased prior to the enactment of clause 19(1)(f)(iii)(B).</p>	Appeal dismissed. See answers below questions.
IMM-1367-02 Beaudry J.	A-91-03	Can the Immigration and Refugee Board ("IRB") through the Chairperson initiate and delegate to a subordinate an inquiry into the conduct and possible discipline of a lawyer or consultant who appears before one of the divisions of the	Discontinued

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
January 21, 2003 2003 FCT 48		IRB?	
IMM-3874-01 Gibson J. January 29, 2003 2003 FCT 94	A-114-03 Strayer J.A. Sexton J.A. Evans J.A. (Reasons) January 26, 2004 2004 FCA 38	Where, as on this matter, a Trial Judge finds a reviewable error on an application for judicial review of a decision engaging the best interests of a child or children, is the Trial Judge obligated to set aside the decision under review and to remit the mater for reconsideration and redetermination on the basis, not merely of the record that was before the decision-maker whose decision is set aside, but on the basis of that record and any new evidence and submissions that the applicant might determine to put before the officer conducting the reconsideration and making the redetermination?	Appeal dismissed. Question not answered.
IMM-330-01 Snider J. April 11, 2003 2003 FCT 426	A-207-03 Linden J.A. Evans J.A. (Reasons) Malone J.A. November 12, 2003 2003 FCA 421	Is an applicant's wealth a relevant consideration in determining whether his or her admission to Canada would cause excessive demands on social services in Canada?	Medical officers are not obliged to consider these factors.
IMM-5264-01 Kelen J. April 14, 2003	A-195-03 Strayer J.A. (Judgment) Evans J.A. Pelletier J.A. January 20, 2004	Does paragraph 27(1)(a) of the <i>Immigration Act</i> , R.S.C. 1985, c.I-2 permit exposure of a permanent resident to deportation on a ground that did not bar the person's admission to Canada? (i.e. Can the Applicant be deported on the basis of a legislative provision that did not exist at the time of his admission to Canada as a permanent resident?)	Appeal dismissed on consent.
IMM-377-02 Campbell J. May 21, 2003 2003 FCT 639	A-283-03 Rothstein J.A. Pelletier J.A. (Reasons) Malone J.A. March 4, 2004	1) Does the exclusion of a Convention refugee under Article 1F(a) of the Refugee Convention mean it has been established that there are reasonable grounds to believe that the refugee status claimant has committed offences at international law under section 18(1)(j) of the Immigration Act so that an Adjudicator conducting an inquiry into allegations made under section 19(1)(j) of the Act would be bound by the Convention Refugee Determination Division's exclusion under Article 1F(a) of the Convention?	Questions not answered Appeal allowed

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
	2004 FCA 89 A-539-04 Létourneau, J.A. (Reasons) Rothstein, J.A. Malone, J.A . September 20, 2005-10-18 2005 FCA 303	2) Does the definition of “crime against humanity”, found at section 4(3) of the Crimes Against Humanity and War Crimes Act, include complicity therein? 3) Can a reviewing Judge apply a Federal Court Trial Division case retroactively to a decision of an Adjudicator which pre-dated the case?	Question #2 recertified by Layden-Stevenson J. Oct. 1/04 Answer #2 yes September 20, 2005 Appeal dismissed
IMM-1304-02 Gibson J. December 17, 2003 2003 FC 1478		Is a Court entitled to give weight to entries in CAIPs notes that form part of a Tribunal Record on an application for judicial review where the entries only speak to the transmission of a correspondence on a particular date where the accuracy of such entries is not attested to by the individuals who made the entries?	No appeal filed.
IMM-4006-01 O'Reilly J. January 28, 2004 2004 FC 134		Are an applicant’s wealth and family support relevant factors in determining whether his or her admission to Canada would place excessive demands on social services?	No appeal filed.

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
IMM-819-03 Russell J. February 26, 2004 2004 FC 331	A-134-04	Must the Appeal Division always address the genuineness of the parent-child relationship under ss. 2(1) of the <i>Immigration Regulations, 1978</i> , even when the adoption in question is established as lawful in accordance with the laws of the province or country other than Canada?	Discontinued
IMM-3194-02 Mackay J. March 19, 2004 2004 FC 179	A-191-04 Richard C.J. Sharlow J.A. Malone J.A. April 11, 2005 2005 FCA 125	<p>i) In a refugee exclusion case based on Article 1F(b) of international Convention on the Status of Refugees</p> <p>a) where the Minister relies upon interrogation statements produced abroad by foreign government agencies, must the Minister establish those statements were voluntary when made, particularly where there is some evidence of lack of voluntariness of one or more of the statements and evidence of torture sometimes used in obtaining statements from persons detained is included in information on general country conditions?</p> <p>b) is the Minister required to give notice in advance of a hearing, of specific criminal acts alleged against the claimant, or is it sufficient if evidence at the subsequent hearing reveals specifics of criminal acts allegedly committed by the claimant?</p> <p>c) is the Refugee Division required to state in its decision the specifics of criminal acts committed by the claimant?</p> <p>ii) Does the decision of the Supreme Court in <i>Suresh v. M.C.I.</i>, [2002] 1 S.C.R. 3, providing for separate assessment of a foreign state's assurance to avoid torture of returned nationals, apply where there is some evidence of generalized resort to torture in the foreign state, or only where there is evidence reasonably indicating resort to torture in similar cases.</p>	<p>i)</p> <p>a) No.</p> <p>b) No.</p> <p>c) No.</p> <p>ii) Not answered.</p>
IMM-491-99 IMM-488-99 Campbell J. July 27, 2004	A-419-04 A-420-04 Evans J.A. (Reasons) Décary J.A.	Did the IRB have jurisdiction to conduct a “lead case” under the <i>Immigration Act</i> ?	Not necessary to answer the question

<i>Trial</i>	<i>Appeal</i>	<i>Question</i>	<i>Answer</i>
2004 FC 1163 & 2004 FC 1039	Sharlow J.A. March 27, 2006 2006 FCA 124		
IMM-377-02 Layden-Stevenson J. October 1, 2004 2004 FC 1356	A-539-04 Létourneau, J.A. (Reasons) Rothstein, J.A. Malone, J.A. September 20, 2005 2005 FCA 303	Does the definition of “crime against humanity” found at subsection 6(3) of the <i>Crimes Against Humanity and War Crimes Act</i> include complicity therein?	Yes