



June 12, 2024

Via email: [Minister@cic.gc.ca](mailto:Minister@cic.gc.ca)

The Honourable Marc Miller, P.C., M.P.  
Minister of Immigration, Refugees and Citizenship Canada  
365 Laurier Avenue West  
Ottawa, ON K1A 1L1

Dear Minister Miller,

**Re: Improving Access to Justice by Increasing Transparency at IRCC**

I write on behalf of the Immigration Law Section of the Canadian Bar Association (CBA Section) to suggest improvements to the operating procedures of Immigration, Refugees and Citizenship Canada (IRCC) with a focus on enhancing access to justice, transparency, accountability, and efficiency. The recommendations below are further supported by the Access to Justice Subcommittee.

The Canadian Bar Association (CBA) is a national association of 39,000 members, including lawyers, notaries, academics and students across Canada, with a mandate to seek improvements in the law and the administration of justice. The CBA Section is comprised of over 1,200 lawyers, practicing in all aspects of Canadian immigration law and rendering professional advice and representation in the Canadian immigration system to clients in Canada and abroad.

The Federal Court of Canada and IRCC are currently experiencing an extreme strain on their resources. This strain is due in great part to the extremely high number of judicial review applications and Access to Information and Privacy (ATIP) requests directed at IRCC to access Global Case Management System (GCMS) notes. The CBA Section makes the following three recommendations to decrease the pressure currently exercised on both organizations:

**1. The issuance of Global Case Management System notes**

- We appreciate and fully support IRCC's commitment to issuing GCMS notes to applicants in the Master Portal currently under development. As the development of the Master Portal could represent a multi-year process, the CBA Section recommends making the notes available as part of the decision letter *before* the Master Portal launches. This practice would reduce significantly the number of ATIP requests, eliminate delays and the resulting prejudice to applicants, thereby enhancing access to justice and supporting the principles of transparency and accountability in government operations.

## 2. Online tracking of Access to Information and Privacy requests

- IRCC should introduce an online tracking system for ATIP requests. This system is currently available through other government entities, including the Canada Border Services Agency, and would improve transparency, reduce frequent status inquiries, and enhance public trust by providing applicants with real-time updates on their requests.
- Although there is a statutory response time of 30 calendar days from the date of an ATIP request, with limited exceptions, this response time is frequently exceeded and counsel has little visibility on the actual response time.

## 3. Need to disclose use of AI assisted and automated decision-making in GCMS

- To ensure that the GCMS notes are complete, IRCC must disclose which AI assisted and automated decision-making tools are used in triaging, processing and making decisions in any application. The GCMS notes should include audit trails that contain the information about the triaging results and all touch points with various processing tools that interact with the application and the data that they have generated.
- To sustain public trust, IRCC must also have external oversight of the AI and automation tools used. External audits of decisions rendered with the assistance of automated and AI assisted decision-making should be conducted, and results should be publicly disclosed to ensure transparency and fairness. These external experts should regularly review the effectiveness of the algorithms used in decision making. Routine audits should specifically check for bias in the algorithms, and a process should be in place to inform stakeholders when a bias has been identified.

### Prejudice to applicants

Applicants who receive negative decisions have a right to the reasons stated in the GCMS notes. The Supreme Court in *Vavilov*<sup>1</sup> emphasizes the need for greater procedural protection when decisions significantly impact individuals. Issuing GCMS notes with decisions would allow applicants to address concerns in subsequent applications promptly, thereby avoiding potential prejudice due to delays.

### Impact on government accountability

As reported by the Information Commissioner of Canada, statistics indicate that IRCC receives more Access to Information Act requests than any other federal institution, with the business sector being the largest source.<sup>2</sup> The completion time for these requests has increased significantly, impeding government accountability. Standard, streamlined accessibility to GCMS notes would alleviate the burden on the ATIP system, allowing it to function more efficiently and transparently.

### Federal Court efficiency and miscarriages of justice

Delays in obtaining GCMS notes compel counsel to file applications for leave and judicial review, which has contributed to the significant volume of cases filed in Federal Court in the last 3 years. This overwhelms the Federal Court with easily avoidable applications and diverts important court resources unnecessarily. Routine issuance of complete GCMS notes would mitigate these issues, ensuring fairer and more timely judicial processes.

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<sup>1</sup> Canada (Minister of Citizenship and Immigration) v Vavilov, 2019 SCC 65, [online](#).

<sup>2</sup> Information Commissioner of Canada, Access at Issue: The Unsustainable Status Quo. Systemic Investigation into Immigration-Related Access to Information Requests, Special Report to Parliament, May 7, 2024, [online](#).

### **Impact of artificial intelligence on GCMS notes**

The CBA Section is concerned about the current lack of transparency surrounding IRCC's use of AI and automation in decision-making. IRCC should take part in Canada's commitment to transparency and public accountability by using open source software.<sup>3</sup> This is consistent with CBA's 2024 resolution on Use Of Artificial Intelligence In Immigration Law And Delivery.<sup>4</sup>

### **Conclusion**

The CBA Section appreciates the opportunity to suggest these improvements to IRCC's decision-making processes. We welcome an opportunity to meet with you and the department to offer additional insights, and assist in the development and implementation of relevant policies.

Yours truly,

*(original signed by Véronique Morissette on behalf of Gabriela Ramo and Jennifer Aik Yeow Khor)*

Gabriela Ramo  
Chair, Immigration Law Section

Jennifer Aik Yeow Khor  
Chair, Access to Justice Subcommittee

- cc. Chief Justice Paul S. Crampton ([Paul.Crampton@fct-cf.ca](mailto:Paul.Crampton@fct-cf.ca))  
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<sup>3</sup> Government of Canada, Open Source Software, January 2024, [online](#).

<sup>4</sup> CBA AGM Resolutions, April 2024, [online](#).