



Instructions Governing the Management of Refugee Protection Claims Awaiting Front-End Security Screening

Effective: February 15, 2006-Amended 15 December 2012

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A. Application

These Instructions are issued by the Chairperson of the Immigration and Refugee Board of Canada (IRB) and are effective December 15, 2012.

These Instructions, originally issued in July 2004 and amended in March 2005, govern the processing of refugee protection claims before the Immigration and Refugee Board of Canada (IRB) with respect to front-end security screening.

B. Background

In November 2001, the Government of Canada made a commitment that all persons claiming refugee protection in Canada would receive front-end security screening to ensure that individuals who might pose a risk to Canada would not be granted protection and could not use the refugee determination process to gain admittance to Canada.

Security screening is conducted by the Canada Border Services Agency (CBSA) in partnership with the Canadian Security Intelligence Service (CSIS). The CBSA is responsible for informing the IRB that security screening has been completed. The IRB never receives the actual security screening report, only a confirmation that it has been completed.

While the Regulations under the Immigration and Refugee Protection Act (IRPA) establish time limits for the scheduling of refugee protection hearings, hearings may be held outside of these timeframes for certain reasons, including a pending investigation or inquiry relating to any of sections 34 to 37 of the Act.¹

Responsibility for coordinating security screening rests with the CBSA. The IRB does not have control over or is otherwise involved in the security screening process. The IRB recognizes that delays in security screening can occur for several reasons and may not reflect on the merits of an individual's claim for protection, nor do they necessarily imply a security concern.

Since these Instructions were originally issued delays in security screening have been reduced. The IRB is now able to proceed with the majority of claims within a reasonable time frame. However, in those instances where security screening remains pending for a prolonged period, hearings are subject to multiple scheduling changes, increasing the administrative burden on the IRB and reducing its ability to fulfill its mandate of deciding cases as quickly and fairly as possible.

¹ 159.9 (3) If the hearing cannot be held within the time limit set out in subparagraph 1 (a)(i) or (ii) or paragraph (1) (b) for any of the following reasons, the hearing must be held as soon as feasible after that time limit:

- (a) for reasons of fairness and natural justice;
- (b) because of a pending investigation or inquiry relating to any of sections 34 to 37 of the Act; or
- (b) because of operational limitations of the Refugee Protection Division.

C. Instructions

Members and other IRB personnel shall follow these Instructions in the processing of refugee protection claims before the Refugee Protection Division (RPD).

In the interest of public security and in order to protect the integrity of the refugee determination process, the RPD will not hear a claim for a period of up to six months from referral unless the RPD receives confirmation from the CBSA that front-end security screening of the claimant has been completed.

1. Process

The IRB anticipates that confirmation of security screening for most claimants will be received in time for the initially scheduled hearing.

In those cases where confirmation of security screening has not been received in time for the initially scheduled hearing, the IRB will remove the hearing from the schedule and set a new date and time for the hearing as soon as feasible upon confirmation of the security screening. Parties will be advised in accordance with the process outlined in [Notification](#).

In those cases where confirmation of security screening has not been received at six (6) months from the date of referral, the RPD will normally proceed to schedule and hear the claim unless the CBSA files an application to change the date and time that is granted by the IRB. In considering such an application, the RPD will provide an opportunity to the claimant to make representations.

In those cases where the IRB grants a delay and confirmation of security screening is subsequently received, it will be rescheduled as soon as feasible.

In cases where confirmation of security screening remains pending at twelve (12) months from the date of referral, the RPD will convene a conference with the claimant, counsel and Minister's counsel and may fix a date for a hearing.

2. Applications to Change the Date and Time of a Proceeding

In cases where the IRB intends to hear a claim even though security screening has not been received, the Minister's counsel may make a written application to change the date and time of the hearing. The RPD requires these applications be received no less than 10 days before the hearing and in accordance with the [RPD Rules](#).

In deciding an application, the RPD will take into account any relevant factors the parties bring forward including efforts made by the CBSA or CSIS to complete security screening in a diligent and timely manner. The RPD will also take into account the

provisions of Chairperson's Guideline 6 - Scheduling and Changing the Date or Time of a Proceeding in the Refugee Protection Division and the RPD Rules.

3. Notification

When a case is delayed because confirmation of security screening has not been received, the RPD will provide the following information to the claimant, counsel for the claimant, the responsible CBSA regional office, and the Minister's counsel, if the Minister is a party in person or by submission of documents:

- The proceeding has been delayed because confirmation of security screening has not been received.
- The RPD will monitor the case for completion of security screening and the hearing will be rescheduled as soon as feasible.

4. Abandonment hearings

Abandonment hearings may proceed notwithstanding that confirmation of security screening has not been received.

D. Enquiries

For information contact:

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*Available in English and French on the IRB's internet site: www.irb-cisr.gc.ca
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