



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

## A. Application

These Instructions, originally issued in July 2004, govern the processing of claims before the Refugee Protection Division (RPD) with respect to front-end security screening. They were amended in March 2005 to accord with the case processing requirements of the [Fast Track Policy](#) (see Policy no. 2005-01 and 2005-02), and are re-issued by the Chairperson of the Immigration and Refugee Board of Canada (IRB or the Board) to elaborate additional procedures regarding the handling of claims awaiting front-end security screening for prolonged periods.

These procedures apply to all claims referred to the RPD since June 28, 2002. The Instructions, as revised, come into effect February 15, 2006.

## 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 screenings are conducted in partnership by the Canada Border Services Agency (CBSA) and the Canadian Security Intelligence Service (CSIS). The CBSA is then responsible for informing the IRB that the security screenings have been completed. This is accomplished via an electronic interface between the CBSA and the Board. The Board never receives the actual security screening itself, only confirmation that it has been completed. The IRB works closely with the CBSA to ensure that the Board receives confirmation of security screening for all claims in a timely manner in order to fulfil its mandate to make well-reasoned decisions on immigration and refugee matters efficiently, fairly and in accordance with the law.

Responsibility for coordinating security screening rests with the CBSA. The IRB is an independent decision-making body. It does not have control over the security-screening process or an independent security role outside of its decision-making function. The Board recognizes that delays in security screening can occur for any number of reasons



and that such delays do not reflect on the merits of an individual claim for protection, nor do they necessarily imply a security concern.

Through continued IRB-CBSA liaison since these Instructions were originally issued on July 23, 2004, significant progress has been made by the CBSA in minimizing delays in confirming security screening completions. The Board is able to proceed with the vast majority of claims within a reasonable period. However, those claims facing a prolonged screening period, and multiple postponements, reduce the Board's ability to fulfill its mandate of deciding cases as quickly and fairly as possible. In light of this, the Board will proceed to schedule a claim after the defined time frame of one year from referral and will hear the claim unless the CBSA files an application to change the date and time that is granted by the IRB.

## C. Instructions

Members and employees of the Board shall follow these Instructions in the processing of claims before the RPD.

### 1. Information exchange

In late 2001, a STAR-FOSS interface between Citizenship and Immigration Canada and the Board became active. The interface, which is now linked with the CBSA, is designed to relay confirmation to the Board that security screening has been completed.

The CBSA now provides the Board with confirmation that security screening has been completed for most claimants within 54 days of the claim's referral.

In order to facilitate the timely receipt of confirmation of security screening, the Board will share information with the CBSA in the following manner:

#### A. Referral reports:

All Board regions shall produce weekly reports to capture the file number of all claimants, 18 years of age and older, where confirmation of security screening is still pending 45 days following referral.

#### B. Reports of scheduled proceedings:

All Board regions shall produce bi-weekly reports to capture the file numbers of all claimants, 18 years of age and older, who have been



scheduled for a proceeding where confirmations of security screening have not yet been received.

C. Reports of claims approaching one year:

All Board regions shall produce reports as required to capture any claim for which the Board has not received confirmation of security screening eleven months after referral.

Upon completion, reports shall be forwarded to the designated representative in Operations Branch, to be forwarded to the CBSA.

Reports A and B will be used by the CBSA to identify cases affected by problems with the electronic interface and cases where the security screening has been delayed. The Board anticipates that the sharing of these reports will help to ensure that confirmation of security screening is up to date and accurate in all cases and that confirmation is communicated in a timely manner.

Report C will advise the CBSA of claims the Board has scheduled where security screening has not been completed within one year of referral, and will hear unless an application to change the date and time of the proceeding is filed by the CBSA and granted by the IRB.

## 2. File management

In order to fulfil its mandate, the RPD must schedule its hearings so that refugee protection claims are finalized as quickly and fairly as possible. The RPD schedules proceedings in accordance with [Chairperson's Guideline 6 - Scheduling and Changing the Date or Time of a Proceeding in the Refugee Protection Division](#).

However, in the interests of public security and in order to protect the integrity of the refugee claims process, the RPD will not hear a claim for a period of up to one year from referral unless the RPD receives confirmation from the CBSA that front-end security screening of the claimant has been completed.

- A. The following provisions shall apply if the Board has not received confirmation that security screening has been completed:
- Rescheduling of non-Fast Track claims - If the Board has not received confirmation that security screening has been completed for a non-Fast Track claim four weeks prior to the proceeding, the Case Management Officer (CMO) responsible for the file will postpone the proceeding, on the



authority of the Chairperson of the Board, and reschedule it for a date at least twelve months after the claim's referral. If confirmation of security screening is received in the interim, the proceeding may be advanced to an earlier available date, subject to the proximity of the proceeding date.

- Rescheduling of Fast Track claims – If the Board has not received confirmation that security screening has been completed for a Fast Track claim one week prior to the proceeding, the CMO responsible for the file will postpone the proceeding, on the authority of the Chairperson of the Board, and reschedule it for a date two to three months after the original proceeding date. If confirmation of security screening is still not received one week before the next date, the CMO will postpone the proceeding for a date at least twelve months after the claim's referral. If confirmation of security screening is received in the interim, the proceeding may be advanced to an earlier date as available, subject to the proximity of the proceeding date.

Cases that are postponed as a result of these Instructions will be identified in STAR as follows:

- Disposition – Postponed
  - Explanation – Case Related
  - Remarks – Security Screening Pending
- Resumptions – The CMO will notify the Member seized with the case that the IRB has not received confirmation that the claimant's security screening has been completed. The Member should consider this factor in deciding whether or not to postpone the scheduled resumption date.
  - Abandonment hearings – Abandonment hearings may proceed pending the receipt of confirmation that the security screening has been completed. If the claimant shows cause why his or her claim should not be declared abandoned, a hearing into the claim will be scheduled two to three months after the date of the abandonment hearing. If confirmation of security screening is received in the interim, the proceeding may be advanced to an earlier available date, subject to the proximity of the proceeding date.
  - Assignment courts, roll call and conferences – These may proceed pending the receipt of confirmation that the security screening has been completed.



- B. In the case of claims involving multiple claimants, where confirmation of security screening has not been received for one or more of the claimants, the CMO responsible for the file will bring the case to the attention of the Coordinating Member (CM), where the case is not seized, or the Member, where it involves a seized case, to decide whether the claims should be separated in accordance with the factors set out in RPD Rule 50.
- C. All Board regions shall produce a regular report showing all cases that have been postponed as a result of these Instructions, and this report shall be forwarded to the Assistant Deputy Chairperson, the appropriate CM, and the Director General, Operations Branch.
- D. While the effective date of these Instructions is February 15, 2006, scheduling of cases at least one-year old that have not been security screened shall begin on April 15, 2006. Cases shall be scheduled in the following sequence:
- a. Claims that are at least one-year old as of February 15, 2006 implementation shall be scheduled for a hearing or interview to proceed at the earliest available date starting April 15, 2006.
  - b. Claims that reach one year of age on a date between February 15, 2006 and April 15, 2006 shall be scheduled for a hearing or interview to proceed at the earliest available date starting April 15, 2006.
  - c. Claims that reach one year of age on April 15, 2006 or later shall be scheduled for a proceeding at the earliest available date.

### 3. Notification

When a case is postponed because security screening has not been completed, notification of the following shall be provided to the claimant, counsel, the 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 postponed because security screening has not been completed.
- A new date has been set at least twelve months from the date of referral.
- The RPD intends to proceed with the hearing or interview even if security screening is not completed.



- If security screening is not completed before the new date, the Minister's counsel may respond to this notification with an application to change the date and time of a proceeding no less than 20 days before the hearing or interview.
- If security screening is completed before the new date, the IRB shall advance the proceeding to an earlier date as available.

Notification of the above shall be provided in the letter illustrated in [Annex A](#) for non-Fast Track cases and Annex B for Fast Track cases.

#### **4. Applications to Change the Date and Time of a Proceeding**

When the IRB intends to hear a claim even though security screening was not completed, the Minister may make a written application to change the date and time of the proceeding. Given that these claims have been pending at the CBSA or CSIS for one year and that the CBSA has had reasonable notice of a hearing date, the RPD requires these applications no less than 20 days before the proceeding, and in accordance with [RPD Rules](#).

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



ANNEX A

[Date]

RPD File No.:

CIC Client ID No.:

[Name of claimant's counsel; if no counsel, this letter should be addressed to the claimant.]

[Address]

Dear [Mr. / Ms.] [last name]:

**Subject: Rescheduling of hearing [or interview] with respect to the claim for refugee protection of [insert claimant's name]**

This is to advise you that the hearing [or interview] scheduled for [insert date] with respect to the above-mentioned claim for refugee protection has been postponed.

The Immigration and Refugee Board of Canada (IRB) has not yet received confirmation from the Canada Border Services Agency (CBSA) that security screening has been completed for the above-mentioned claimant. Under the IRB's *Instructions Governing the Management of Refugee Protection Claims Awaiting Front-end Security Screening* (updated February 15, 2006), the hearing [or interview] with respect to this claim has been rescheduled for [insert date – at least 12 months after referral date]. Please find attached a Notice to Appear advising you of the new hearing [or interview] date. The IRB intends to proceed with this hearing [or interview] unless the IRB receives an application from CBSA to change the date and time at least 20 days before the hearing [or interview], and is granted by the IRB. If confirmation of security screening is received in the interim, the IRB will attempt to reschedule this proceeding at the earliest available date.

The IRB recognizes that delays in security screenings can occur for any number of reasons and that they are not a reflection of the merits of an individual claim for protection, nor do they indicate a security concern. We regret any inconvenience this postponement may cause.

Yours truly,

[first name, name]

Case Management Officer

Att.

- c.c. - [claimant]
- [Minister's counsel, if participating]
- [regional office of CBSA]



ANNEX B

[Date]

RPD File No.:

CIC Client ID No.:

[Name of claimant's counsel; if no counsel, this letter should be addressed to the claimant.]

[Address]

Dear [Mr. / Ms.] [last name]:

**Subject: Rescheduling of hearing [or interview] with respect to the claim for refugee protection of [insert claimant's name]**

This is to advise you that the hearing [or interview] scheduled for [insert date] with respect to the above-mentioned claim for refugee protection has been postponed.

The Immigration and Refugee Board of Canada (IRB) has not yet received confirmation from the Canada Border Services Agency (CBSA) that security screening has been completed for the above-mentioned claimant. Under the IRB's *Instructions Governing the Management of Refugee Protection Claims Awaiting Front-end Security Screening* (updated February 15, 2006), the hearing [or interview] with respect to this claim has been rescheduled for [insert date – two to three months after the original date]. Please find attached a Notice to Appear advising you of the new hearing [or interview] date.

If security screening is not completed one week before the next hearing [or interview] date, the case will be postponed for a date at least 12 months after the claim was referred to the IRB. The IRB intends to hear the claim at that time regardless of whether CBSA has completed security screening.

The IRB recognizes that delays in security screenings can occur for any number of reasons and that they are not a reflection of the merits of an individual claim for protection, nor do they indicate a security concern. We regret any inconvenience this postponement may cause.

Yours truly,

[first name, name]

Case Management Officer

Att.

- c.c. - [claimant]
- [Minister's counsel, if participating]
- [regional office of CBSA]