



October 27, 2022

Via email: Minister@cic.gc.ca

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

Dear Minister Fraser:

Re: Exclusion of Counsel in Citizenship Matters

I write on behalf of the Canadian Bar Association to express concern that Immigration, Refugees and Citizenship Canada (IRCC) is preventing clients from obtaining effective legal advice and representation in citizenship matters.

The CBA is a national association of 37,000 members, including lawyers, notaries, academics and students across Canada, with a mandate to seek improvements in the law, to the administration of justice and to access to justice.

The CBA Immigration Law Section wrote to IRCC in May 2021 to raise concerns about the exclusion of counsel.¹ IRCC responded that the situation was temporary and caused by the pandemic, at the onset of which IRCC wanted to avoid mailed applications that officers had to process in-person. IRCC gave priority to the rapid implementation of new digital intake tools that constitute “minimum viable products,” which would continue to evolve. In August 2021, my predecessor Bradley D. Regehr wrote to ask that IRCC integrate a role for counsel in all online platforms before their launch and immediately integrate representatives, for a “minimum viable product” that excludes lawyers is not a “viable product” at all and should not be released.²

Online platforms that are unavailable to representatives create barriers for access to justice. Individuals who mandate a lawyer to assist with their citizenship application have a right to fair process, which includes accessing the appropriate technological process. As it modernizes its processes, IRCC must not impede lawyers’ ability to represent clients at pivotal stages of their immigration and citizenship applications.

¹ Letter from CBA Immigration Law Section to ADM Operations of IRCC, (May 7, 2021), [online](#).

² Letter from CBA President Brad Regehr to the Minister of Justice and Attorney General of Canada and the Minister of Immigration, Refugees, and Citizenship Canada, (August 3, 2021), [online](#).

We were pleased to see that IRCC released a representative version of the online PR Portal for the submission of permanent residence applications shortly after receiving the CBA letter of August 2021. The PR Representative Portal enables lawyers to submit permanent residence applications online for clients.³ This became essential for immigration lawyers when, a year later (October 2022), IRCC required online submission for nearly all permanent residence program categories.⁴ We also applaud IRCC's inclusion of counsel, more recently, in online permanent resident card and permanent resident travel document applications in the PR Representative Portal.

However, lawyers remain excluded from submitting online citizenship and proof of citizenship applications on behalf of clients. IRCC launched the online submission of grant of citizenship applications in August 2021, but it is only available to individuals.⁵ In November 2021, IRCC enabled the online submission of proof of citizenship applications for individuals.⁶ However, representatives are barred from the proof of citizenship online submission process and can only submit proof of citizenship applications by paper to IRCC. While IRCC has since allowed individuals applying online for grant of citizenship to upload a signed form to declare a representative, IRCC still does not allow representatives to submit these applications for their clients.

There is no Citizenship Representative Portal to date. This impinges upon lawyers' ability to represent clients when lawyers can only review the citizenship application via screenshare or screenshots and do not have access to the application. In June 2022, IRCC expanded the functionality of the online citizenship portal to grant access to groups of adults beyond individual adult applicants. However, the functionality of the online citizenship portal has still not been expanded to representatives.

Without access to online portals and an ability to submit applications online for clients, lawyers cannot adequately counsel clients, some of whom may opt to self-represent and thus lose the benefit of counsel. Self-represented applicants may make mistakes in their citizenship application that can lead to refusals or unintended misrepresentation which can have devastating consequences on their ability to become a citizen. If lawyers had access to the citizenship portal and could file citizenship applications online for those who opt to engage a lawyer, they would be able to fully exercise their professional duties and mistakes could be avoided.

Completing an online application accurately, uploading supporting documents with precision and submitting the application with the correct fees are important elements of immigration lawyers' duties to their clients. IRCC suggested, in their prior response to the CBA Immigration Law Section, that screen-sharing technologies "make it possible to walk clients through these actions and provide assistance to them in real time."⁷ This is insufficient. Some individuals hire counsel because they do not have time to carefully upload application documents to an electronic portal. Others may have difficulty navigating the technology required to submit or lack access to technology altogether. Some individuals requiring representation do not speak English or French fluently, increasing their vulnerability.

Like immigration applicants, citizenship applicants have the right to be represented by counsel in complex processes that will shape their future in Canada, and the technology IRCC uses for its citizenship application processes should reflect that right. While we understand that IRCC intends to

³ Immigration, Refugees and Citizenship Canada, "New Permanent Residence Online Application Portal for Authorized Representatives" (August 10, 2021), [online](#).

⁴ Immigration, Refugees and Citizenship Canada, "Transitioning to online applications for permanent residence", (September 1, 2022), [online](#).

⁵ Immigration, Refugees and Citizenship Canada, "Online Citizenship Applications", (August 11, 2021), [online](#).

⁶ Immigration, Refugees and Citizenship Canada, "Online applications available for proof of citizenship and search of citizenship records", (November 5, 2021), [online](#)

⁷ IRCC's response to the CBA Immigration Law Section, at page 2, para. 2.

eventually build in a role for representatives in its online citizenship portal, applicants and their representatives are harmed when the current version precludes submission by counsel. Citizenship applicants left to navigate online platforms on their own are more likely to make mistakes than experienced counsel. Excluding lawyers from new technologies puts lawyers in a difficult position that undermines the solicitor-client relationship. Lawyers can only advise clients on the sidelines, risk breaching law society rules, or fulfill their mandate by submitting paper applications, resulting in slower processing times.

Lawyers play an integral role in defending the rule of law, one of the foundational pillars of democracy and our rights and freedoms. It is important that lawyers are equipped with the tools to exercise their functions on behalf of their clients without artificial constraints. IRCC should not compromise applicants' right to the assistance of counsel – even temporarily – as it modernizes its application processes.

We respectfully submit that it is paramount that IRCC include representatives in online citizenship applications without delay. Becoming a Canadian citizen or attaining proof of Canadian citizen status is of pivotal importance to individuals. By depriving individuals of proper counsel through their exclusion from the online citizenship portal, IRCC has created a barrier to a fair citizenship process.

The CBA appreciates the opportunity to raise concerns on this issue. We would be pleased to discuss our recommendations or offer additional insights.

Sincerely,

(original letter signed by Steeves Bujold)

Steeves Bujold, he/him-il/lui

cc. The Honourable David Lametti, P.C., M.P. (mcu@justice.gc.ca)