

Temporary Resident Permits

OVERCOMING ROADBLOCKS



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TRPs

What are they?

IRPA s. 24

Special temporary permit that can be issued if:

- You are otherwise inadmissible or do not meet the requirements of the Act ..., but have a reason ... that is justified in the circumstances, you may be issued a TRP
- Your need to enter or stay in Canada must outweigh the health or safety risks to Canadian society, as determined by an immigration or a border services officer

Why are TRPs Issued?

- You are inadmissible under IRPA,
- You are reportable for a violation of the Act, or
- You do not otherwise meet the requirements of the Act

AND

- The circumstances are exceptional
 - the need of the individual to enter or remain in Canada is compelling and sufficient to overcome any risks they might pose
- You have no other legal alternatives
 - Not eligible for restoration of status or rehabilitation

• Common reasons for a TRP:

- Criminal inadmissibility
- Medical inadmissibility
- Overstay (that cannot be resolved by restoration)
- Person who is not a “genuine” visitor
- Victim of human trafficking

NOTE: OP 20 s. 5.15. Early admission

TRP justified to allow FN to enter Canada before they satisfy requirements for PRs. The officer must be certain this action is essential.

When will TRPs not be considered?

- Your presence in Canada would contravene the objectives of IRPA. For example:
 - You are inadmissible for :
 - security [[A34](#)],
 - violation of human or international rights [[A35](#)],
 - serious criminality [[A36\(1\)](#)] or
 - organized criminality [[A37](#)]
- If less than 12 months has passed since refugee claim refused
- If you are under a removal order, prior consultations with the Case Management Branch or the Canada Border Services Agency have to occur before you can be approved;

Temporary Resident Permit (TRP): Where and How to Apply

- If outside Canada → visa office (**Check website for which office is appropriate in the situation**)
- If inside Canada → immigration office closest to place where your client lives (e.g. victim of human trafficking)
- If renewing TRP within Canada → CPC Vegreville

or...

TRPs often accompany another permit or authorization for temporary status

- Temporary Resident Visa (TRV)
- Study Permit,
- Work Permit,
- Visitor Visa (TRV) Records

NOTE: OP 20 5.15. Early admission

TRPs can allow FN to enter Canada before they satisfy the requirements for permanent residence. The officer must be certain this action is essential.

Applying Outside Canada

Case study Octavia

- Octavia, an H&C applicant, was diagnosed with late stage breast cancer soon after arriving in Canada with her two young children and was given only months to live. She needed her husband and older daughter to come to Canada before she died. Time was of the essence
- Her H&C application was approved quickly.
- IRCC expedited processing of her PR application.
- No time for a sponsorship application for her family to join her.

THE TRP STRATEGY

- TRV application with TRP request if they found he was not a genuine visitor.
 - **NOTE: Onus is on the applicant to prove the compelling circumstances**
- The evidence:
 - Medical
 - Best Interests of the children
 - Affidavit evidence from Octavia
 - Support letters
 - Proof of Financial support

SUCCESS!



From Nairobi no less!

CASE LAW on factors:

- *Mousa v. Canada (Immigration, Refugees and Citizenship)*, 2016 FC 1358
 - BIOC
 - the essential purpose of the person's presence in Canada,
 - the type/class of application and pertinent family compositions,
 - the tangible or intangible benefits which may accrue to the person and to others as well as
 - and

And “Other”





TRPs ARE NOT
A
FIX ALL
SOLUTION

Rodney's **so called** exceptional circumstances

- Rodney left his wife behind when he fled to Canada, where he made a successful refugee claim. He included her in his application for permanent residence as a protected person.
- Soon after Rodney left, his wife also had to flee. However, “delegates” of the oppressive regime found her and she was at imminent risk.
- Rodney’s application for PR was taking forever.
- His lawyer applied to bring her here under a TRV – TRP

What happened?

- The visa officer refused the Temporary Visitor Visa (visitor visa)

but

- The officer did not assess the request for the TRP!



Clear Legal Error

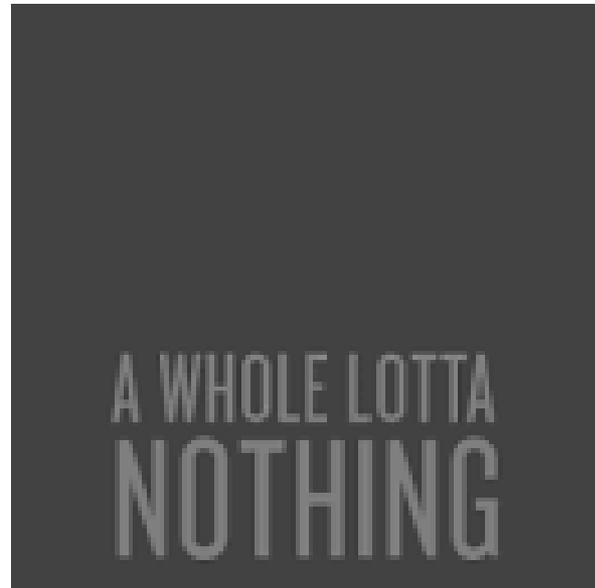
Shah v. MCI [2011] F.C.J. No. 1553 at paras 77 – 79

- error not to consider TRP request

- Settled without writing a factum
- The application was sent back for a new decision by a different office in October 2016.

The result?

The TRP was never decided. Rodney's wife arrived in Canada in February 2018 under the family reunification application.



Inside Canada

Where to Apply?

- Immigration office closest to where your client lives, or which is handling another application of the client
(examples of the circumstances)
- CPC Vegreville – to renew TRP within Canada or to request initial TRP for inland applicant
- Request as an alternative to PR under H&C

FORMS

- criminal inadmissibility → form for Rehabilitation application
- If extension of TRP within Canada and client only has TRP status → same application to extend status as a visitor
- If extension of TRP within Canada and client has student or worker status → same SP/WP extension application

Just because the forms are the same as other applications, does not mean supporting documents should be the same

Remember: the onus of proof is on the client



CASE STUDY – RICH DUDE WHO DIDN'T KNOW HE WAS INADMISSIBLE



CASE STUDY – RICH DUDE WHO DIDN'T KNOW HE WAS INADMISSIBLE

- Single conviction for workplace negligence causing death (workplace accident where he was the owner)
- Not a criminal case in the country of origin
- Visa exempt and pre-eTA so entered Canada without knowing he was inadmissible
- Real estate developer in Canada – invested in 11 homes and constructed 12 more – multi-million dollar investments, and lots of job creation
- TRP requested inland along with work permit request
- Granted and subsequently renewed until Rehab eligible

Additional Considerations Criminality

- Officers should assess:
 - Seriousness of the offence
 - Chances of committing further offences
 - Any behavioural or medical factors involved
 - Evidence of reform or rehabilitation
 - Whether the influence of drugs, alcohol or a medical condition was a factor in the commission of the crime
 - If there is a pattern of criminal behaviour (e.g., the offence was a single event and out of character)
 - If all sentences have been completed, fines paid or restitution made
 - If there are any outstanding criminal charges
 - If there is any restriction of travel following probation or parole
 - Eligibility for rehabilitation or a record of suspension
 - Time elapsed since the offence occurred
 - Controversy or risk caused by the presence of the person in Canada

Additional Considerations

Criminality Example

- For frequent travellers, a TRP may be issued authorizing re-entry if:
 - The crime did not involve drugs (simple possession of marijuana/hashish may be excluded from this consideration)
 - The crime did not involve physical harm or violence
 - The crime resulted in a suspended sentence or probation (no jail term), unless it was the result of plea bargaining
 - The crime did not involve damage to property (impaired driving resulting in an accident would not be eligible)
 - The person has been fulfilling the conditions while on probation, if applicable
 - There are no more than two convictions
 - The crimes were both summary offences (arising out of one offence) and not indictable
- Applicants should be encouraged to apply for rehabilitation when eligible

The Special TRP : Victims of human trafficking are eligible for:

1. A short term TRP up to 180 days to help the person get their feet on the ground, consider their options and get counselling,
 2. A longer-term or subsequent TRP, in cases when there are reasonable grounds for the officer to believe the individual is a victim
- Victims of human trafficking are exempt from the cost recovery fee for the initial short-term TRP and the fee for a work permit issued in conjunction with the TRP.
 - Medical and social counselling assistance may be granted to suspected victims of human trafficking via the Interim Federal Health (IFH) program available through CIC for TRP holders.

TRP Privileges

- **TRP valid for at least 6 months:**
 - You can apply for a work or study permit,
 - you may get access to health or other social services
- **Medical Inadmissibility:**
 - You can apply for PR after 3 years (R.65(b)(i))
- **Other inadmissibility**
 - You can apply for PR after 5 years (R.65(b)(ii))
(except for the really bad stuff)

Things to look out for:

- TRP coverage must be continuous to qualify under Permit Holders Class.
- If the situation changes and you are no longer inadmissible, or your inadmissibility otherwise changes, you may not be eligible for permanent residence.
- For criminality exemptions the onus is on the client to demonstrate that further criminal activity is unlikely.
- A foreign national under a removal order may be issued a TRP. In some circumstances, issuing a TRP may be required when enforcement of the removal order is not possible.

Additional Considerations – PDIs

- Additional procedures and considerations for:
 - Inadmissibility (health)
<http://www.cic.gc.ca/english/resources/tools/temp/permits/health.asp>
 - Inadmissibility (criminality)
<http://www.cic.gc.ca/english/resources/tools/temp/permits/criminal.asp>
 - Victims of human trafficking
<http://www.cic.gc.ca/english/resources/tools/temp/permits/victim.asp>
 - Removal orders and immigration warrants
<http://www.cic.gc.ca/english/resources/tools/temp/permits/removal.asp>
 - Stateless children of Canadian citizens
<http://www.cic.gc.ca/english/resources/tools/temp/permits/canada.asp>

Fees

- TRV (single entry or multiple entry) / Super Visa = \$100
 - Maximum fee of \$500 for a family
 - Biometrics collections = \$85
- eTA = \$0
- Study Permit = \$150
- Spousal WP = \$255
 - \$155 WP fee
 - \$100 Open WP fee
- Restoration = \$200
- TRP =\$200

Questions:

