

2020 Annual Report

Avoiding Complicity in Mistreatment by Foreign Entities



Immigration, Refugees and Citizenship Canada

Immigration, Réfugiés et Citoyenneté Canada

Canada

Introduction

In accordance with subsection 7(1) of the *Avoiding Complicity in Mistreatment by Foreign Entities Act* (ACMFEA), this report is presented to the Minister of Immigration, Refugees and Citizenship, and describes the activities that Immigration, Refugees and Citizenship Canada (IRCC) has undertaken to ensure compliance with the Order-in-Council on *Directions for Avoiding Complicity in Mistreatment by Foreign Entities* issued to the Department on September 4, 2019.

The following report covers the reporting period between January 1, 2020 and December 31, 2020.

Background

On September 4, 2019, IRCC was issued an Order-in-Council on its information sharing practices pursuant to Section 3(1) of the ACMFEA. The Order-in-Council directs that:

- 1) No disclosure of information be made to a foreign entity, which would result in a substantial risk of mistreatment of an individual, unless it is determined that the risk can be fully mitigated.
- 2) No request for information is made to a foreign entity, which would result in a substantial risk of mistreatment of an individual, unless it is determined that the risk can be fully mitigated.
- 3) No information that was likely obtained through the mistreatment of an individual by a foreign entity be used in any way that: creates a substantial risk of further mistreatment; as evidence in any judicial, administrative or other proceeding; or, in any way that deprives someone of their rights or freedoms.

In 2019, IRCC implemented new policies and procedures for officers contemplating information exchanges with foreign entities, including:

- A new risk assessment tool for officers contemplating information exchanges with foreign entities;
- A new process for officers seeking risk assessment and guidance for a specific case;
- The formation of an *ad hoc* Avoiding Complicity Assessment Committee to be called in the event there is a need to reassess risk or possible mitigations.

Information Sharing Practices at IRCC

IRCC undertakes information exchanges with international partners to aid in the administration of legislation for which the Minister is responsible (the *Immigration and Refugee Protection Act*, the *Citizenship Act*, and the *Canadian Passport Order*) and to fulfill its mandate to facilitate the travel and integration of people to Canada, while maintaining the safety and security of Canadians.

International information sharing is a valuable tool that helps IRCC to, *inter alia*:

- Verify the identity of IRCC applicants, which makes processing applications easier and simplifies entry for legitimate travellers; and
- Strengthen officers' decision-making by providing access to records that may be pertinent to determining an individual's eligibility and admissibility to Canada, including whether an individual poses a risk to the safety and security of Canadians.

International Information Sharing Arrangements

IRCC continues to utilize its information sharing arrangements with trusted international partners – Australia, New Zealand, the United Kingdom, and the United States. It is in accordance with these information sharing arrangements that the vast majority of IRCC's information sharing takes place. These administrative arrangements are available to the [public](#) and expressly preclude the sharing of information that may place an individual or their family at risk of torture or persecution. Information is only shared with partner countries in a manner that respects privacy laws, civil liberties and human rights.

- In 2020, IRCC did not establish any new information sharing arrangements with foreign entities.

Other International Information Sharing

In certain circumstances, IRCC may also exchange information with a foreign partner with whom it does not have an agreement or arrangement, as authorized by Section 8 of the *Privacy Act*. Depending on the circumstances, exchanges of this nature are only conducted at the discretion of an officer or other delegated official after considering the relevant authorities and the intended use of

the information, including the likelihood of it leading to the mistreatment of an individual. Officers have been instructed to ensure that all exchanges are recorded for tracking purposes.

Implementing *Avoiding Complicity in Mistreatment*

As this is now the second year of being subject to the Order-in-Council, IRCC has sought to monitor, maintain and support the existing processes and procedures that were initially established in response to the receipt of the Order-in-Council, in 2019.

Legal Requirements of the ACMFEA

- The previous year's annual report has been made available to the public and can be found online [here](#).

Updating Policies and Procedures

As part of its ongoing monitoring, IRCC implemented the following updates to existing procedures within the reporting period:

- Published new instructions to front-line officers detailing the new procedures in the IRCC intranet;
- Updated training materials for officers departing for overseas postings;
- Drafted Terms of Reference for the Avoiding Complicity Assessment Committee (to be finalized internally); and
- Updated forms for officers seeking consultation on a specific case (to be finalized internally).

Inter-Agency Cooperation

- IRCC continued to participate in regular inter-departmental discussions with other subject departments and agencies with the express intent to facilitate greater collaboration and information-sharing between members as they implement the ACMFEA and the corresponding Order in Council on *Directions for Avoiding Complicity in Mistreatment by Foreign Entities*.
- IRCC also responded to the National Security and Intelligence Review Agency's request for information on the Department's policies and procedures for implementing the ACMFEA.

This request for information served as part of its annual review of the Implementation of the ACMFEA across the Government of Canada.

Activity Report

Within the reporting period, there were three cases where officers requested a further risk assessment pursuant to IRCC's new policies and procedures.

- *Disclosure cases resulting from requests by foreign entities requiring additional risk assessment*

Two cases were ongoing as of December 31, 2020.

- *Request cases requiring additional risk assessment*

IRCC had no cases.

- *Use cases requiring additional risk assessment*

IRCC had one case, resulting in the decision to not use information provided.

- *Cases requiring referral to the Avoiding Complicity Assessment Committee*

IRCC had no cases.