

# 2021 Annual Report

Avoiding Complicity in Mistreatment by Foreign Entities



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## 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 between January 1, 2021 and December 31, 2021, to ensure compliance with the Order-in-Council on *Directions for Avoiding Complicity in Mistreatment by Foreign Entities*.

## 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 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.
- 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.

Since 2019, IRCC has established and maintained policies and procedures that help to ensure compliance with the ACMFEA. These include:

- A risk assessment tool for officers contemplating information exchanges with foreign entities;
- A consultation process for officers seeking risk assessment and guidance for a specific case; and,

- The formation of an *ad hoc* Avoiding Complicity Assessment Committee to be called in the event there is a need to reassess risk or risk mitigation strategies.

## 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/or 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 2021, 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***

IRCC continues 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 annual report for calendar year 2020 was submitted to the Minister as required, and has been made available to the public. The report can be found online [here](#).

### **Internal Activities**

- IRCC continues to work internally to raise awareness of the ACMFEA policies and procedures through regular training sessions for officers departing for overseas and domestic postings.

### **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 (NSIRA) requests for information on the Department's policies and procedures for implementing the ACMFEA. This request for information served as part of NSIRA's annual review of the Implementation of the ACMFEA across the Government of Canada.

## Activity Report

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

- *“Disclosure” cases resulting from requests by foreign entities for information, requiring additional risk assessment*

Two cases were assessed in the 2021 reporting period. In both cases, it was determined that there was no substantial risk of mistreatment, and the disclosures took place.

- *“Request” cases requiring additional risk assessment*

IRCC had no cases in the 2021 reporting period.

- *“Use” cases requiring additional risk assessment*

IRCC had no cases in the 2021 reporting period.

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

IRCC had no cases in the 2021 reporting period.

- *Cases carried over from the 2020 reporting period.*

In the 2020 reporting period, IRCC reported two cases as “ongoing”:

- one of those cases as been closed with no disclosure taking place;
- the second case has remained “ongoing” throughout the 2021 reporting period.