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September 4, 2012

Mr. Dikranian,

Following are the comments of OCASI – The Ontario Council of Agencies Serving Immigrants regarding the proposed “**Regulatory Amendments – Processing Time Lines for Asylum Claims in Canada**” that were published in the Canada Gazette Part I on August 4, 2012.

The Ontario Council of Agencies Serving Immigrants (OCASI) is the umbrella organization for the immigrant and refugee-serving sector in Ontario. The Council was formed in 1978 to act as a collective voice for immigrant-serving agencies and to coordinate responses to shared needs and concerns. OCASI is a registered charity governed by a volunteer board of directors. Our membership comprises more than 200 immigrant and refugee-serving organizations located across Ontario.

OCASI supports a timely, affordable and fair refugee determination system, but we have significant concerns about the timelines proposed in the regulatory amendments, in particular those concerns individuals from “designated countries of origin” (DCO).

As OCASI stated in our brief to the Standing Committee on Citizenship and Immigration, we are opposed to the concept of “designated countries of origin” and the differential treatment of claimants based on their country of origin, including shorter timelines and no chance for appeal. We also have significant concerns that the Minister has virtually unrestricted authority to designate any country.

A country that is seemingly ‘safe’ for some residents may be unsafe for others, particularly minorities including LGBTQ individuals who may face a different level of risk and women and men at risk of gender-based violence. Such individuals may not receive state protection because of systemic discrimination among the police and judiciary. They may be at risk of violence and persecution from family members and individuals they know in their personal and public lives. Every such refugee claim is context-specific and must address a complex set of factors in order to ascertain both persecution and whether state authorities have failed to protect the individual. They may often require more preparation.

Timelines

It is proposed that the Basis of Claim document, for those making a claim at a Port of Entry, be submitted within 15 days. For many claimants, the time allowed will not be sufficient to obtain legal advice and prepare for the complicated legal requirements of the definition of Convention Refugee.

The shorter timelines will have the greatest impact on refugees who need time to build trust before they can tell their story before the IRB, and on refugees who lack important

documents. Refugees who will be most disadvantaged will be those who have experienced torture, women and men who have experienced sexual violence, and LGBTQ refugees making a claim on the basis of sexual orientation and identity.

The refugee hearing is the most crucial element in the process to determine whether an individual is a convention refugee. The proposed regulations reduce the period allowed for preparing for this process to 30 days for an individual from a 'designated country' making an in-land claim and 45 days for such a person making a claim from a port of entry, and 60 days for everyone else. OCASI is deeply concerned that this will not give the claimant sufficient time to meet the complex requirements of the convention refugee determination.

Work Permits

It is being proposed that DCO claimants not be granted work permits until they have a positive decision on their claim or 180 days (6 months) have elapsed with no decision on their claim.

The stated rationale is that "*Restricting access to work permits would deter claimants who are seeking to misuse the asylum system in order to gain access to Canada's labour market*". This rationale contradicts the repeated assertion by the Minister that the differential treatment of DCO claimants is meant to deter claimants who supposedly use the asylum system simply to gain access to Canada's social assistance programs¹.

Forcing DCO claimants to use social assistance, while demonizing them for doing so, is contradictory and bad public policy. OCASI is opposed to DCO claimants' restricted access to work permits. DCO claimants should have the right to work.

In conclusion, the Council strongly opposes the differential treatment of DCO claimants, has significant concerns about the impact of the proposed shortened time lines, and is against the restricted access of DCO claimants to work permits.

Sincerely,



Debbie Douglas
Executive Director

¹http://embassymag.ca/dailyupdate/printpage/new_refugee_bill_lumps_together_biometrics_human_smuggling_bill_past_reforms_02-17-2012