Court File No.: 34258

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)

BETWEEN:

MUHSEN AHEMED RAMADAN AGRAIRA

Appellant
(Respondent)

- and -

MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent
(Appellant)

- and –

BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION, AHMAD DAUD MAQSUDI, CANADIAN COUNCIL FOR REFUGEES AND CANADIAN ASSOCIATION OF REFUGEE LAWYERS, AND CANADIAN ARAB FEDERATION AND CANADIAN TAMIL CONGRESS

Interveners

FACTUM OF THE INTERVENER, BRITISH COLUMBIA CIVIL LIBERTIES ASSOCIATION

(pursuant to Rule 37 of the *Rules of the Supreme Court of Canada*)

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PART I -- STATEMENT OF FACTS AND OVERVIEW OF BCCLA'S POSITION

1. The British Columbia Civil Liberties Association (the "BCCLA") submits that national security concerns must always be carefully balanced against individual human rights, civil liberties and broader *Charter* values. In the present case, by essentially equating "national interest" with "national security" and rendering the exercise of ministerial discretion nearly meaningless, the Federal Court of Appeal upset the delicate statutory equilibrium found in s. 34(1) and (2) of the *Immigration and Refugee Protection Act*.[1]

2. In the present case, it is the position of the BCCLA that the interpretation of the concept of detriment to Canada's national interest as part of the exercise of ministerial discretion in s. 34(2) must be considered in light of the Act as a whole, including both related provisions and purpose statements, and that s. 34(2) must also be interpreted in a manner that is consistent with *Charter* values.

3. Adopting this approach, it becomes clear that the exercise of ministerial discretion should include a thorough assessment and balancing of all factors relevant to the national interest, not just national security and public safety. A broad interpretation of the ministerial discretion contained in s. 34(2) of the Act is not only consistent with sound principles of statutory interpretation and *Charter* values, but also best maintains the delicate balance between national security concerns and civil liberties.

4. As an intervener, the BCCLA takes no position on the specific facts of this case and accepts them as stated in the Appellant's and Respondent's facta.

PART II -- THE QUESTIONS IN ISSUE

5. Of the three issues raised in this appeal by the Appellant and Respondent, the BCCLA will make submissions only on the first issue, namely whether the Federal Court of Appeal erred in its interpretation of ss. 34(2) of *IRPA*, by equating national interest with national security and public safety.

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[1] *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA or "the Act"].

PART III – STATEMENT OF ARGUMENT

(a) Section 34(2) must be interpreted in the context of Act as a whole

6. Consistent with the rules of statutory interpretation, any interpretation of s. 34(2) of IRPA must take into consideration the Act as a whole. The BCCLA submits that by placing an undue emphasis on the transfer of ministerial responsibility under s. 34(2) to the Minister of Public Safety and reading "national interest" in an overly restrictive way the Federal Court of Appeal failed to give due consideration to this principle of statutory interpretation.

7. Reading the Act as a whole includes taking into consideration related provisions. Provisions that are of particular relevance to the interpretation of s. 34(2) include:

- Section 33, which provides that there need only be a relatively low evidentiary threshold of "reasonable grounds to believe" that the facts that constitute inadmissibility under ss. 34 to 37 have occurred, are occurring or may occur;[2]
- Section 34(1), which governs inadmissibility on security grounds, including terrorism; and
- Sections 35 and 37, which are parallel provisions governing inadmissibility for human rights violations or organized criminality. Like s. 34(2), sections 35(2) and 37(2) allow for the Minister of Public Safety to exercise his discretion to provide relief from the inadmissibility provisions where it is in the "national interest." Any interpretation given to "national interest" must be capable of working in all three contexts given the parallel structure of the provisions.

8. Notably, there is no limit on the temporal application of s. 34(1), which applies to organizations that have engaged, are engaging or will engage in acts of terrorism, subversion or espionage. As the Federal Court has noted with respect to this provision, "[m]embership by the individual in the organization is similarly without temporal restrictions…There need not be a matching of the person's active membership to when the organization carried out its terrorist acts."[3]

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[2] *Ugbazghi v. Canada (Minister of Citizenship and Immigration)*, 2008 FC 694, [2009] 1 FCR 454 at para. 47 [*Ugbazghi*].

[3] *Yamani v. Canada (Public Safety and Emergency Preparedness)*, 2006 FC 1457 (CanLII) at paras. 11-13 [*Yamani*].

9. As well, the meaning of "member" in s. 34(1)(f) has been given an unrestricted and broad interpretation" by the courts.[4] The entire spectrum of possible involvement is caught – from unknowingly donating to a terrorist organization, to attending a few meetings, to actively participating in the planning of a terrorist bombing.

10. The combined effect of this low evidentiary threshold, unlimited temporal application, and broad approach to membership is to capture an incredibly wide range of conduct.[5] However, the "harshness" of s. 34(1) is mitigated when it is read in conjunction with the relieving provision in s. 34(2), which provides an exception to a finding of inadmissibility and creates "an avenue for all persons to have an individualized assessment of their impact on the national interest".[6]

11. It is only under the s. 34(2) process that factors such as the timing of membership, the present characterization and status of the organization (i.e. whether the organization now has wide-spread acceptance in the international community), the nature of an individual's involvement (i.e. peripheral vs. active), the length of time that has passed and the individual's age when involved, may be taken into account.[7]

12. Notably, these are the very type of factors that are outlined in the administrative guidelines IP 10 and ENF 2/OP 18, and which the Federal Court of Appeal refused to consider as being relevant to the exercise of ministerial discretion in s. 34(2). Although the guidelines are not binding on the Minister, they provide an example of the correct approach to the exercise of the s. 34(2) discretion, which takes into account all of the purposes of the Act, and does not improperly fetter the Minister's exercise of discretion.

13. Implicit in the drafting of s. 34(1) and (2), is a recognition that a finding of inadmissibility under subsection (1) is not determinative of whether or not it is in the national interest to grant ministerial relief for an individual to remain in Canada pursuant to subsection

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[4] *Poshteh v. Canada (Minister of Citizenship and Immigration)*, 2005 FCA 85 (CanLII) at paras. 27-29 [*Poshteh*].
[5] *Ugbazghi, supra* at para. 47. The correctness of the broad interpretation of s. 34(1) in the jurisprudence of the Federal Court and the Federal Court of Appeal is not before this Court in the present appeal. The BCCLA notes that the cases referred to in paragraphs 8-10 above arguably interpret s. 34(1) more broadly that necessary in light of the language of the provision and its purposes.
[6] *Yamani, supra* at para. 14; see also *Maleki v. Canada (Citizenship and Immigration)*, 2012 FC 131 (CanLII)at para. 21.
[7] *Yamani, supra* at para. 13; *Ugbazghi, supra* at para. 48.

(2). Indeed, the very existence of this relief provision has been found to be key to the broad interpretation given to s. 34(1).[8]

14. It is submitted that an unduly restrictive approach to s. 34(2), such as the one adopted by the Minister in this case and upheld by the Federal Court of Appeal, which essentially says that it can never be Canada's "national interest to admit individuals who have had sustained contact with known terrorist and/or terrorist-connected organizations", is an error in principle because it undermines the legislative scheme by rendering meaningless the important mitigating role of the ministerial discretion contained in s. 34(2) as a limit on the breadth of s. 34(1).

15. Reading the Act as a whole also requires that consideration be given to purpose statements, which provide context for the entire Act. Section 3 of IRPA sets out a number of relevant statutory objectives including, not only "maintain[ing] the security of Canadian society"[9] and "promot[ing] international...security...by denying access to Canadian territory to persons who are criminals or security risks,"[10] but also "fostering respect for human rights,"[11] granting "fair consideration to those who come to Canada claiming persecution,"[12] upholding "fundamental freedoms of all human beings,"[13] family reunification,[14] and promoting the economic benefits to Canada of immigration.[15]

16. Rather than giving meaning to these varied statutory objectives and purposes, the Federal Court of Appeal adopted an unduly narrow interpretation of "national interest" in s. 34(2) that elevated national security as the sole objective warranting consideration by the Minister when exercising his discretion to provide relief from the inadmissibility provisions.

17. It is submitted that when the purposes of the Act as reflected in s. 3 are considered, it is clear that the legislature intended the Minister to conduct a thorough assessment and balancing of all of the relevant factors when determining whether it is in the "national interest" to allow an applicant under s. 34(2) to stay in Canada. Indeed, the relevant factors outlined in the

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[8] *Poshteh, supra* at para. 29; *Ugbazghi, supra* at para. 47.
[9] IRPA s. 3(1)(h), s. 3(2)(g).
[10] IRPA s. 3(1)(i), s. 3(2)(h).
[11] IRPA s. 3(1)(i).
[12] IRPA s. 3(2)(c).
[13] IRPA s. 3(2)(e).
[14] IRPA, s. 3(1)(d).
[15] IRPA, ss. 3(1)(a) and (c).

administrative guidelines IP 10 and ENF 2/OP 18, while not binding, are consistent with the purposes of the Act and "a useful indicator of what will amount to a reasonable interpretation of the power conferred by section 34(2).[16]

(b) Section 34(2) must be interpreted consistently with *Charter* values

18. Another principle of statutory interpretation that must be taken into consideration in the case at bar is consistency with the *Charter* values. This Court has repeatedly recognized that when legislation is susceptible of more than one interpretation it must be interpreted in a manner consistent with the *Charter*.[17]

19. This principle of statutory interpretation is in harmony with s. 3(3)(d) of IRPA, which states that the Act must be applied in a manner that "ensures that decisions taken...are consistent with the *Canadian Charter of Rights and Freedoms*".

20. Recently in *Doré v. Barreau du Québec,* Abella J., writing for the Court, explained that "administrative decision-makers must act consistently with the values underlying the grant of discretion, including *Charter* values," which requires the administrative decision-maker to "balanc[e] the *Charter* values with the statutory objectives" and to consider "how the *Charter* value at issue will best be protected in view of the statutory objectives." [18] Thus, in the present case, it is essential that the Minister consider how to best protect *Charter* values when exercising his discretion under s. 34(2). This requires a consideration of more than just national security.

21. At paragraph 95 of his factum, the Respondent argues that *Charter* values should not be considered in the interpretation of s. 34 because, in his submission, s. 34 is not ambiguous. The BCCLA submits that it may well be possible for this Court to decide this case without recourse to *Charter* values on the basis that the narrow interpretation of s. 34(2) advocated by the Respondent can be rejected using other principles of statutory interpretation. However, in light of the argument made by the Respondent, and accepted by the Federal Court of Appeal,

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[16] *Momenzadeh Tameh v. Canada (Public Safety and Emergency Preparedness),* 2008 FC 884 (CanLII) at para. 41; see also *Soe v. Canada (Public Safety and Emergency Preparedness),* 2007 FC 461 (CanLII)at para. 27.
[17] *Slaight Communications Inc. v. Davidson,* [1989] 1 S.C.R. 1038, at p. 1078; see also *R. v. Zundel,* [1992] 2 SCR 731 at p. 771; *R. v. Sharpe,* [2001] 1 S.C.R. 45 at para. 33, and also *Eldridge v. British Columbia (Attorney General),* [1997] 3 SCR 624 at para. 22.
[18] *Doré v. Barreau du Québec,* 2012 SCC 12, at paras. 24, 55-56.

supporting a narrow interpretation of the discretion contained in s. 34(2), it is appropriate for the Court to consider whether the narrow interpretation advocated by the Respondent is inconsistent with *Charter* values.

22. In particular, the *Charter* values embodied in s. 7, namely life, liberty, and security of the person, warrant consideration. In interpreting s. 34(2), it is important to remember that s. 34 applies not only to individuals who seek to become permanent residents via sponsorship (like the Appellant), but also to individuals who have been found to be Convention refugees with a well-founded fear of persecution. A finding of inadmissibility under s. 34(1) coupled with a failure to exercise the discretion to grant ministerial relief under s. 34(2) cannot be viewed in isolation, but must be understood as part of a multi-step process that could ultimately lead to a refugee's deportation, thereby engaging the *Charter* values of life, liberty and security of the person.[19] Although the Appellant is not a Convention refugee, the *Charter* implications of the application of s. 34(2) to Convention Refugees must be considered in the statutory interpretation of the scope of the ministerial discretion.

23. In addition, security of the person may also be engaged by the fact that a failure to exercise the discretion to grant Ministerial relief under s. 34(2) of the Act may have "serious and profound effect[s]" on an individual's psychological integrity if it results in a permanent separation from one's children and a denial of the right to family reunification.[20] This *Charter* value may be engaged for permanent residents or foreign nationals found to be inadmissible under s. 34(1), whether or not they are Convention refugees.

24. In interpreting s. 34(2), it is also important to consider the *Charter* values embodied in the principles of fundamental justice in s. 7. Fundamental justice requires a "contextual approach" that is "essentially one of balancing."[21] Consistent with this constitutional norm, the exercise of ministerial discretion in s. 34(2) should include a thorough assessment and balancing of all factors relevant to the national interest, not just national security and public safety.

25. Given the unrestricted and broad interpretation of "member" in s. 34(1)(f), the values of freedom of expression and association, found in s. 2(b) and 2(d) of the *Charter* must also be

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[19] *Singh v. Minister of Employment and Immigration*, [1985] 1 SCR 177 at paras. 41-48, 56 [*Singh*]; *Suresh v. Canada (Minister of Citizenship and Immigration)*, [2002] 1 SCR 3 at paras. 44, 49-57 [*Suresh*].
[20] *New Brunswick (Minister of Health and Community Services) v. G. (J.)*, [1999] 3 S.C.R. 46 at paras. 57-61.
[21] *Suresh, supra* at paras. 45-46.

taken into consideration when interpreting s. 34(2). Because of the low evidentiary threshold, unlimited temporal application, and broad approach to membership in s. 34(1), discussed above at paragraphs 8 to 10, an individual may be found to be inadmissible if, for example, they gave a speech in support of a political party which only many years later engaged in terrorist activities. In other words, legitimate speech and legitimate expression can be tainted after the fact and result in a finding of inadmissibility.

26. In the present case, the interpretation of s. 34(2) that is consistent with the *Charter* values embodied by ss. 2(b), 2(d) and 7 is one that supports a robust and contextual exercise of ministerial discretion and requires that not only are national security and public safety concerns be taken into consideration but also other individualized factors, such as the timing of membership in the organization in question, the current status of the organization, and the nature of an individual's involvement. This interpretation of the concept of detriment to Canada's national interest in s. 34(2) recognizes that when the facts of a particular case are considered in context, it may not be detrimental to Canada's national interest, or to national security, to admit an individual to Canada who falls within the class deemed inadmissible under s. 34(1), if their participation in an organization was many years ago, was non-violent and/or was at a time when the organization was not engaged in terrorist activities. This is necessarily a contextual, case by case assessment.

27. The BCCLA submits that a broad and contextual interpretation of the discretion in s. 34(2) is essential to the statutory scheme's constitutionality. Indeed, previous decisions of the Federal Court and the Federal Court of Appeal which interpret the concept of "membership" in s. 34(1) very broadly have expressly relied on the existence of the relieving provision in s. 34(2) allowing for an individualized assessment of all of the facts surrounding a request for ministerial relief as a counter-balance to the harshness of the broad interpretation of s. 34(1).[22] A narrow interpretation of the s. 34(2) discretion thus calls into question one of the interpretive premises of the broad interpretation of s. 34(1), and, as explained above raises *Charter* concerns.

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[22] *Yamani, supra* at paras. 13-14; ***Poshteh,*** *supra* at paras. 27-29; *Ughazghi, supra* at paras. 47-48; *Maleki, supra* at para. 21.

28. In *Suresh v. Canada,* this Court considered whether the predecessor provision to s. 34(1), s. 19(1) of the *Immigration Act*, violated section 2(b) and (d) of the *Charter*. [23] In finding that the scheme was constitutional, the Court remarked in particular on the existence of the grant of ministerial discretion. As the Court explained:

> We believe that it was not the intention of Parliament to include in the s. 19 class of suspect persons those who innocently contribute to or become members of terrorist organizations. This is supported by the provision found at the end of s. 19, which exempts from the s. 19 classes "persons who have satisfied the Minister that their admission would not be detrimental to the national interest". Section 19 must therefore be read as permitting a refugee to establish that his or her continued residence in Canada will not be detrimental to Canada, notwithstanding proof that the person is associated with or is a member of a terrorist organization. This permits a refugee to establish that the alleged association with the terrorist group was innocent. In such case, the Minister, exercising her discretion constitutionally, would find that the refugee does not fall within the targeted s. 19 class of persons eligible for deportation on national security grounds.[24]

29. In other comparable contexts, this Court has found that the existence of discretion, either ministerial or judicial, is essential to a statute's constitutionality.

30. For example, in *Canada (Attorney General) v. PHS Community Services Society*, this Court was asked to consider whether provisions of the *Controlled Drugs and Substances Act,*[25] which prohibits possession of illegal drugs, even for a clinic that operates a safe injection site, violates s. 7 of the *Charter*. Chief Justice McLachlin, writing for the Court, held that the fact that s. 56 of the CDSA gives the Minister of Health a broad discretion to grant an exemption from the application of the Act is key to the scheme's constitutionality since it acts as a "safety valve that prevents the CDSA from applying where such application would be arbitrary, overbroad or grossly disproportionate in its effects." [26] On this point, Chief Justice McLachlin concluded as follows:

> [W]hile s. 4(1) of the *CDSA* engages the s. 7 *Charter* rights of the individual claimants and others like them, it does not violate s. 7. This is because the *CDSA* confers on the Minister the power to

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[23] *Immigration Act, R.S.C. 1985, c. I-2.*

[24] *Suresh, supra* at paras. 108-110. The Federal Court of Appeal in the judgment under appeal reads the comments of this Court at paragraph 110 of *Suresh* as limiting the discretion in s. 34(2) to unknowing association with a terrorist organization or similar situations such as "coerced" participation (Reasons of the Federal Court at paras. 63-64). It is submitted that the comments of this Court at para. 110 of *Suresh* were not intended to exhaustively describe when the s. 34(2) discretion could apply. Rather, the Court was addressing the appellant's argument summarized at para. 109 of *Suresh* that the provisions were unconstitutional because they would render inadmissible individuals who had unknowingly associated with a terrorist organization.

[25] S.C. 1996, c. 19 [CDSA].

[26] *Canada (Attorney General) v. PHS Community Services Society*, [2011] 3 SCR 134 at para. 113 [PHS].

> grant exemptions from s. 4(1) on the basis, *inter alia*, of health. Indeed, if one were to set out to draft a law that combats drug abuse while respecting *Charter* rights, one might well adopt just this type of scheme — a prohibition combined with the power to grant exemptions.
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> ...
>
> The discretion vested in the Minister of Health is not absolute: as with all exercises of discretion, the Minister's decisions must conform to the *Charter*: *Suresh v. Canada*... If the Minister's decision results in an application of the *CDSA* that limits the s. 7 rights of individuals in a manner that is not in accordance with the *Charter*, then the Minister's discretion has been exercised unconstitutionally.
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> ...
>
> [W]here s. 7 rights are at stake, any limitations imposed by ministerial decision must be in accordance with the principles of fundamental justice. The Minister cannot simply deny an application for a s. 56 exemption on the basis of policy *simpliciter*; insofar as it affects *Charter* rights, his decision must accord with the principles of fundamental justice.[27]

31. The statutory scheme in the case at bar is analogous to the situation in *PHS*. Like the statutory scheme found in the CDSA, s. 34(1) of IRPA provides for a broad and far reaching prohibition, while s. 34(2) accords discretion to the Minster, and acts as a "safety valve" that relieves from the harshness and overbreadth of s. 34(1). Take away or unduly fetter that exercise of discretion and the constitutionality of the whole scheme is thrown into question.

32. Another comparable situation where the exercise of discretion has been found to be key to a statute's constitutionality is the search and seizure context. In *Baron v. Canada*, Justice Sopinka writing for the Court held that the residual discretion of the judiciary to refuse to issue a search warrant even when the statutory criteria had been met for its issuance was "fundamental to the scheme of prior authorization" and "an indispensable requirement for compliance with s. 8."[28] This exercise of discretion allowed for a balancing of the competing interests at play. Justice Sopinka explained as follows:

> [I]n order to fulfil properly the "balance wheel" role required by s. 8 of the *Charter*, a judge must be able to weigh all the surrounding circumstances to determine whether in each case the interests of the state are superior to the individual's right to privacy. By restricting the factors that a judge may consider, Parliament has improperly restricted a judge's ability to assess the reasonableness of a search.[29]

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[27] *Ibid.* at paras. 114, 117 and 128.
[28] *Baron v. Canada*, [1993] 1 S.C.R. 416 at p. 435 and see generally pp. 435-443.
[29] *Ibid.* at p. 442.

33. In *Baron,* because s. 231.3(3) of the *Income Tax Act* removed this residual discretion, the Court found that it violated s. 8 of the *Charter* and was unconstitutional.

34. Similar to the search and seizure context, the present context also requires a thorough assessment and balancing of factors. If the exercise of ministerial discretion is limited to consideration of only national security, the exercise of discretion becomes illusory. Rather the exercise of ministerial discretion should include a thorough assessment and balancing of all factors relevant to the national interest, not just national security and public safety. A broad interpretation of the ministerial discretion contained in s. 34(2) of the Act is not only consistent with *Charter* values, but also best maintains the delicate balance between national security concerns and civil liberties.

35. In the present case, the interpretation of s. 34(2) that is the most consistent with the *Charter* values and the statutory objectives is one that supports a broad and contextual exercise of ministerial discretion, as was found by Justice Mosley of the Federal Court. The narrow and restrictive approach adopted by the Federal Court of Appeal, which places an undue emphasis on national security, is inconsistent with both the broader purposes of the statute, as outlined above, and with the *Charter*.

PART IV -- SUBMISSIONS ON COSTS

36. The BCCLA does not seek costs and asks that none be awarded against it.

PART V -- NATURE OF THE ORDER REQUESTED

37. The BCCLA seeks leave to make oral submissions of not longer than 10 minutes.

All of which is respectfully submitted this 10th day of September, 2012.

Jill Copeland and Colleen Bauman per JC

Jill Copeland and Colleen Bauman

Counsel for the Intervener, British Columbia Civil Liberties Association

PART VI -- TABLE OF AUTHORITIES

PART VII -- STATUTES / REGULATIONS / RULES

***Canadian Charter of Rights and Freedoms*, Part I of t *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11**	***La Charte canadienne des droits et libertés*, Partie I *de la Loi constitutionnelle de 1982 (R-U)*, constituant l'annexe B de la *Loi de 1982 sur le Canada* (R-U), 1982, c 11**
2. Everyone has the following fundamental freedoms:	2. Chacun a les libertés fondamentales suivantes :
. . .	. . .
(b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;	b) liberté de pensée, de croyance, d'opinion et d'expression, y compris la liberté de la presse et des autres moyens de communication;
. . .	. . .
(d) freedom of association.	d) liberté d'association.
7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.	7. Chacun a droit à la vie, à la liberté et à la sécurité de sa personne; il ne peut être porté atteinte à ce droit qu'en conformité avec les principes de justice fondamentale

***Immigration and Refugee Protection Act*, S.C. 2001, c. 27**	***Loi sur l'immigration et la protection des réfugiés*, L.C. 2001, ch. 27**
Objectives — immigration 3. (1) The objectives of this Act with respect to immigration are (a) to permit Canada to pursue the maximum social, cultural and economic benefits of immigration; (b) to enrich and strengthen the social and cultural fabric of Canadian society, while respecting the federal, bilingual and multicultural character of Canada; (b.1) to support and assist the development of minority official languages communities in Canada; (c) to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada; (d) to see that families are reunited in Canada; (e) to promote the successful integration of	Objet en matière d'immigration 3. (1) En matière d'immigration, la présente loi a pour objet : a) de permettre au Canada de retirer de l'immigration le maximum d'avantages sociaux, culturels et économiques; b) d'enrichir et de renforcer le tissu social et culturel du Canada dans le respect de son caractère fédéral, bilingue et multiculturel; b.1) de favoriser le développement des collectivités de langues officielles minoritaires au Canada; c) de favoriser le développement économique et la prospérité du Canada et de faire en sorte que toutes les régions puissent bénéficier des avantages économiques découlant de l'immigration; d) de veiller à la réunification des familles au Canada;

permanent residents into Canada, while recognizing that integration involves mutual obligations for new immigrants and Canadian society; (f) to support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces; (g) to facilitate the entry of visitors, students and temporary workers for purposes such as trade, commerce, tourism, international understanding and cultural, educational and scientific activities; (h) to protect public health and safety and to maintain the security of Canadian society; (i) to promote international justice and security by fostering respect for human rights and by denying access to Canadian territory to persons who are criminals or security risks; and (j) to work in cooperation with the provinces to secure better recognition of the foreign credentials of permanent residents and their more rapid integration into society.	e) de promouvoir l'intégration des résidents permanents au Canada, compte tenu du fait que cette intégration suppose des obligations pour les nouveaux arrivants et pour la société canadienne; f) d'atteindre, par la prise de normes uniformes et l'application d'un traitement efficace, les objectifs fixés pour l'immigration par le gouvernement fédéral après consultation des provinces; g) de faciliter l'entrée des visiteurs, étudiants et travailleurs temporaires qui viennent au Canada dans le cadre d'activités commerciales, touristiques, culturelles, éducatives, scientifiques ou autres, ou pour favoriser la bonne entente à l'échelle internationale; h) de protéger la santé et la sécurité publiques et de garantir la sécurité de la société canadienne; i) de promouvoir, à l'échelle internationale, la justice et la sécurité par le respect des droits de la personne et l'interdiction de territoire aux personnes qui sont des criminels ou constituent un danger pour la sécurité; j) de veiller, de concert avec les provinces, à aider les résidents permanents à mieux faire reconnaître leurs titres de compétence et à s'intégrer plus rapidement à la société.
Objectives — refugees (2) The objectives of this Act with respect to refugees are (a) to recognize that the refugee program is in the first instance about saving lives and offering protection to the displaced and persecuted; (b) to fulfil Canada's international legal obligations with respect to refugees and affirm Canada's commitment to international efforts to provide assistance to those in need of resettlement; (c) to grant, as a fundamental expression of Canada's humanitarian ideals, fair consideration to those who come to Canada claiming persecution; (d) to offer safe haven to persons with a well-	Objet relatif aux réfugiés (2) S'agissant des réfugiés, la présente loi a pour objet : a) de reconnaître que le programme pour les réfugiés vise avant tout à sauver des vies et à protéger les personnes de la persécution; b) de remplir les obligations en droit international du Canada relatives aux réfugiés et aux personnes déplacées et d'affirmer la volonté du Canada de participer aux efforts de la communauté internationale pour venir en aide aux personnes qui doivent se réinstaller; c) de faire bénéficier ceux qui fuient la persécution d'une procédure équitable reflétant les idéaux humanitaires du Canada; d) d'offrir l'asile à ceux qui craignent avec raison d'être persécutés du fait de leur race,

founded fear of persecution based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment; (e) to establish fair and efficient procedures that will maintain the integrity of the Canadian refugee protection system, while upholding Canada's respect for the human rights and fundamental freedoms of all human beings; (f) to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada; (g) to protect the health and safety of Canadians and to maintain the security of Canadian society; and (h) to promote international justice and security by denying access to Canadian territory to persons, including refugee claimants, who are security risks or serious criminals.	leur religion, leur nationalité, leurs opinions politiques, leur appartenance à un groupe social en particulier, ainsi qu'à ceux qui risquent la torture ou des traitements ou peines cruels et inusités; e) de mettre en place une procédure équitable et efficace qui soit respectueuse, d'une part, de l'intégrité du processus canadien d'asile et, d'autre part, des droits et des libertés fondamentales reconnus à tout être humain; f) d'encourager l'autonomie et le bien-être socioéconomique des réfugiés en facilitant la réunification de leurs familles au Canada; g) de protéger la santé des Canadiens et de garantir leur sécurité; h) de promouvoir, à l'échelle internationale, la sécurité et la justice par l'interdiction du territoire aux personnes et demandeurs d'asile qui sont de grands criminels ou constituent un danger pour la sécurité.
Application (3) This Act is to be construed and applied in a manner that (a) furthers the domestic and international interests of Canada; (b) promotes accountability and transparency by enhancing public awareness of immigration and refugee programs; (c) facilitates cooperation between the Government of Canada, provincial governments, foreign states, international organizations and non-governmental organizations; (d) ensures that decisions taken under this Act are consistent with the Canadian Charter of Rights and Freedoms, including its principles of equality and freedom from discrimination and of the equality of English and French as the official languages of Canada; (e) supports the commitment of the Government of Canada to enhance the vitality of the English and French linguistic minority communities in Canada; and (f) complies with international human rights	Interprétation et mise en oeuvre (3) L'interprétation et la mise en oeuvre de la présente loi doivent avoir pour effet : a) de promouvoir les intérêts du Canada sur les plans intérieur et international; b) d'encourager la responsabilisation et la transparence par une meilleure connaissance des programmes d'immigration et de ceux pour les réfugiés; c) de faciliter la coopération entre le gouvernement fédéral, les gouvernements provinciaux, les États étrangers, les organisations internationales et les organismes non gouvernementaux; d) d'assurer que les décisions prises en vertu de la présente loi sont conformes à la Charte canadienne des droits et libertés, notamment en ce qui touche les principes, d'une part, d'égalité et de protection contre la discrimination et, d'autre part, d'égalité du français et de l'anglais à titre de langues officielles du Canada; e) de soutenir l'engagement du gouvernement du Canada à favoriser l'épanouissement des

instruments to which Canada is signatory.	minorités francophones et anglophones du Canada; f) de se conformer aux instruments internationaux portant sur les droits de l'homme dont le Canada est signataire.
Rules of interpretation 33. The facts that constitute inadmissibility under sections 34 to 37 include facts arising from omissions and, unless otherwise provided, include facts for which there are reasonable grounds to believe that they have occurred, are occurring or may occur.	Interprétation 33. Les faits — actes ou omissions — mentionnés aux articles 34 à 37 sont, sauf disposition contraire, appréciés sur la base de motifs raisonnables de croire qu'ils sont survenus, surviennent ou peuvent survenir.
Security 34. (1) A permanent resident or a foreign national is inadmissible on security grounds for (a) engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada; (b) engaging in or instigating the subversion by force of any government; (c) engaging in terrorism; (d) being a danger to the security of Canada; (e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or (f) being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b) or (c). Exception (2) The matters referred to in subsection (1) do not constitute inadmissibility in respect of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.	Sécurité 34. (1) Emportent interdiction de territoire pour raison de sécurité les faits suivants : a) être l'auteur d'actes d'espionnage ou se livrer à la subversion contre toute institution démocratique, au sens où cette expression s'entend au Canada; b) être l'instigateur ou l'auteur d'actes visant au renversement d'un gouvernement par la force; c) se livrer au terrorisme; d) constituer un danger pour la sécurité du Canada; e) être l'auteur de tout acte de violence susceptible de mettre en danger la vie ou la sécurité d'autrui au Canada; f) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle est, a été ou sera l'auteur d'un acte visé aux alinéas a), b) ou c). Exception (2) Ces faits n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national.
Human or international rights violations 35. (1) A permanent resident or a foreign national is inadmissible on grounds of violating human or international rights for (a) committing an act outside Canada that	Atteinte aux droits humains ou internationaux 35. (1) Emportent interdiction de territoire pour atteinte aux droits humains ou internationaux les faits suivants : a) commettre, hors du Canada, une des

constitutes an offence referred to in sections 4 to 7 of the Crimes Against Humanity and War Crimes Act; (b) being a prescribed senior official in the service of a government that, in the opinion of the Minister, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide, a war crime or a crime against humanity within the meaning of subsections 6(3) to (5) of the Crimes Against Humanity and War Crimes Act; or (c) being a person, other than a permanent resident, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association.	infractions visées aux articles 4 à 7 de la Loi sur les crimes contre l'humanité et les crimes de guerre; b) occuper un poste de rang supérieur — au sens du règlement — au sein d'un gouvernement qui, de l'avis du ministre, se livre ou s'est livré au terrorisme, à des violations graves ou répétées des droits de la personne ou commet ou a commis un génocide, un crime contre l'humanité ou un crime de guerre au sens des paragraphes 6(3) à (5) de la Loi sur les crimes contre l'humanité et les crimes de guerre; c) être, sauf s'agissant du résident permanent, une personne dont l'entrée ou le séjour au Canada est limité au titre d'une décision, d'une résolution ou d'une mesure d'une organisation internationale d'États ou une association d'États dont le Canada est membre et qui impose des sanctions à l'égard d'un pays contre lequel le Canada a imposé — ou s'est engagé à imposer — des sanctions de concert avec cette organisation ou association.
Exception (2) Paragraphs (1)(b) and (c) do not apply in the case of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest.	Exception (2) Les faits visés aux alinéas (1)b) et c) n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national.
Organized criminality 37. (1) A permanent resident or a foreign national is inadmissible on grounds of organized criminality for (a) being a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part	Activités de criminalité organisée 37. (1) Emportent interdiction de territoire pour criminalité organisée les faits suivants : a) être membre d'une organisation dont il y a des motifs raisonnables de croire qu'elle se livre ou s'est livrée à des activités faisant partie d'un plan d'activités criminelles organisées par plusieurs personnes agissant de concert en vue de la perpétration d'une infraction à une loi fédérale punissable par mise en accusation ou de la perpétration, hors du Canada, d'une infraction qui, commise au Canada, constituerait une telle infraction, ou se livrer à des activités faisant partie d'un tel plan; b) se livrer, dans le cadre de la criminalité

of such a pattern; or (b) engaging, in the context of transnational crime, in activities such as people smuggling, trafficking in persons or money laundering. Application (2) The following provisions govern subsection (1): (a) subsection (1) does not apply in the case of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest; and (b) paragraph (1)(a) does not lead to a determination of inadmissibility by reason only of the fact that the permanent resident or foreign national entered Canada with the assistance of a person who is involved in organized criminal activity.	transnationale, à des activités telles le passage de clandestins, le trafic de personnes ou le recyclage des produits de la criminalité. Application (2) Les dispositions suivantes régissent l'application du paragraphe (1) : a) les faits visés n'emportent pas interdiction de territoire pour le résident permanent ou l'étranger qui convainc le ministre que sa présence au Canada ne serait nullement préjudiciable à l'intérêt national; b) les faits visés à l'alinéa (1)a) n'emportent pas interdiction de territoire pour la seule raison que le résident permanent ou l'étranger est entré au Canada en ayant recours à une personne qui se livre aux activités qui y sont visées.

***Immigration Act*, R.S.C. 1985, c. I-2 (repealed)**	***Loi sur l'immigration*, L.R.C. 1985, ch. I□2 (abrogée)**
19. (1) No person shall be granted admission who is a member of any of the following classes: . . . (*e*) persons who there are reasonable grounds to believe . . . (iv) are members of an organization that there are reasonable grounds to believe will . . . (C) engage in terrorism; (*f*) persons who there are reasonable grounds to believe . . .	**19.** (1) Les personnes suivantes appartiennent à une catégorie non admissible : . . . *e*) celles dont il y a des motifs raisonnables de croire qu'elles : . . . (iv) soit sont membres d'une organisation dont il y a des motifs raisonnables de croire qu'elle : . . . (C) soit commettra des actes de terrorisme; *f*) celles dont il y a des motifs raisonnables de croire qu'elles : . . .

(ii) have engaged in terrorism, or (iii) are or were members of an organization that there are reasonable grounds to believe is or was engaged in . . . (B) terrorism, except persons who have satisfied the Minister that their admission would not be detrimental to the national interest;	(ii) soit se sont livrées à des actes de terrorisme, (iii) soit sont ou ont été membres d'une organisation dont il y a des motifs raisonnables de croire qu'elle se livre ou s'est livrée : . . . (B) soit à des actes de terrorisme, le présent alinéa ne visant toutefois pas les personnes qui convainquent le ministre que leur admission ne serait nullement préjudiciable à l'intérêt national;

***Income Tax Act*, S.C. 1970-71-72, c. 63, as amended by S.C. 1986, c. 6, s. 121 (not current version)**	***Loi de l'impôt sur le revenu*, S.C. 1970-71-72, ch. 63, modifiée par S.C. 1986, ch. 6, art. 121**
231.3 (1) A judge may, on ex parte application by the Minister, issue a warrant in writing authorizing any person named therein to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize and, as soon as practicable, bring the document or thing before, or make a report in respect thereof to, the judge or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section. . . . (3) A judge shall issue the warrant referred to in subsection (1) where he is satisfied that there are reasonable grounds to believe that (*a*) an offence under this Act has been committed; (*b*) a document or thing that may afford evidence of the commission of the offence is	**231.3** (1) Sur requête *ex parte* du ministre, un juge peut décerner un mandat écrit qui autorise toute personne qui y est nommée à pénétrer dans tout bâtiment, contenant ou endroit et y perquisitionner pour y chercher des documents ou choses qui peuvent constituer des éléments de preuve de la perpétration d'une infraction à la présente loi, à saisir ces documents ou choses et, dès que matériellement possible, soit à les apporter au juge ou, en cas d'incapacité de celui□ci, à un autre juge du même tribunal, soit à lui en faire rapport, pour que le juge en dispose conformément au présent article. . . . (3) Le juge saisi de la requête décerne le mandat mentionné au paragraphe (1) s'il est convaincu qu'il existe des motifs raisonnables de croire ce qui suit: *a*) une infraction prévue par la présente loi a été commise; *b*) il est vraisemblable de trouver des documents ou choses qui peuvent constituer

likely to be found; and (*c*) the building, receptacle or place specified in the application is likely to contain such a document or thing.	des éléments de preuve de la perpétration de l'infraction; *c*) le bâtiment, contenant ou endroit précisé dans la requête contient vraisemblablement de tels documents ou choses.