Lawpoint Law office

5409 Yonge St. #205
Toronto, Ontario, Canada M2M 5R6
416.273.6646 info@lawpoint.ca

October 25, 2025

Re: Admissibility assessment for
the Applicant, DOB 01.01.1977

This document concerns the Applicant's admissibility to Canada under the Immigration and Refugee Protection Act (IRPA), in connection with a possible application for a Canadian visa or Canadian permanent residence.

Based on the written information provided, the Applicant is inadmissible to Canada on grounds of serious criminality.

This opinion sets out the relevant facts, the applicable Canadian law, and the admissibility analysis. It also addresses the possible remedies and forms of relief available in light of the inadmissibility finding, including rehabilitation, deemed rehabilitation, a Temporary Resident Permit, humanitarian and compassionate considerations, and ministerial relief.

Summary of facts

1. **Offence 1:** On October 27, 2015, the District Court in City A convicted the Applicant of driving a vehicle after his license had been revoked (case No. A-001/2015). The sentence (fine) was executed on September 1, 2018.
2. **Offences 2 & 3:** On October 12, 2016, and February 1, 2019, the District Courts in City A and City B convicted the Applicant of failing to submit required financial statements (cases No. A-002/2018 and No. B-003/2018). The fines for both were executed on March 18, 2025.
3. **Offence 4:** On February 12, 2021, the District Court in City A convicted the Applicant of failing to disclose the object of taxation to the authority (case No. A-004/2021). The fine was executed on March 18, 2025.

EXAMPLE

4. **Offence 5:** On May 18, 2024, the District Court for City C convicted the Applicant of submitting a false tax declaration (case No. C-005/2024). The fine was converted into community service (5 months at 30 hours/month), which commenced in May 2025 and has not been served since.

Applicable provisions of the Criminal Code of Canada

Criminal Code R.S.C., 1985, c. C-46, retrieved on 25/10/2025

Operation while prohibited

320.18 (1) Everyone commits an offence who operates a conveyance while prohibited from doing so,

(a) by an order made under this Act; or;

(b) by any other form of legal restriction imposed under any other Act of Parliament or under provincial law in respect of a conviction under this Act or a discharge under section 730.

Punishment

320.19 (5) Every person who commits an offence under subsection 320.13(1) or 320.16(1), section 320.17 or subsection 320.18(1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than 10 years; or

(b) an offence punishable on summary conviction.

Applicable provisions of the Income Tax Act

Income Tax Act, RSC 1985, c 1 (5th Supp), retrieved on 25/10/2025

Other offences and punishment

239 (1) Every person who has

(a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer filed or made as required by or under this Act or a regulation,

(not applicable, omitted)

EXAMPLE

(d) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act…

is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to

(f) a fine of not less than 50%, and not more than 200%, of the amount of the tax that was sought to be evaded, or

(g) both the fine described in paragraph 239(1)(f) and imprisonment for a term not exceeding 2 years.

Applicable provisions of the Immigration and Refugee Protection Act

Immigration and Refugee Protection Act, SC 2001, c 27, retrieved on 25/10/2025

Serious criminality

36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for

(a) having been convicted in Canada of an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years, or of an offence under an Act of Parliament for which a term of imprisonment of more than six months has been imposed;

(b) having been convicted of an offence outside Canada that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years; or

(c) committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years.

EXAMPLE

Criminality

36 (2) A foreign national is inadmissible on grounds of criminality for

(a) having been convicted in Canada of an offence under an Act of Parliament punishable by way of indictment, or of two offences under any Act of Parliament not arising out of a single occurrence;

(b) having been convicted outside Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, or of two offences not arising out of a single occurrence that, if committed in Canada, would constitute offences under an Act of Parliament; or

(c) committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an indictable offence under an Act of Parliament.

Application

36 (3) The following provisions govern subsections (1) to (2.1):

(a) an offence that may be prosecuted either summarily or by way of indictment is deemed to be an indictable offence, even if it has been prosecuted summarily;

(b) (not applicable, omitted)

(c) the matters referred to in paragraphs (1)(b) and (c) and (2)(b) and (c) do not constitute inadmissibility in respect of a permanent resident or foreign national who, after the prescribed period, satisfies the Minister that they have been rehabilitated or who is a member of a prescribed class that is deemed to have been rehabilitated;

Applicable provisions of the Immigration and Refugee Protection Regulations

Immigration and Refugee Protection Regulations, SOR/2002-227, retrieved on 25/10/2025

Prescribed period

17 For the purposes of paragraph 36(3)(c) of the Act, the prescribed period is five years

EXAMPLE

(a) after the completion of an imposed sentence, in the case of matters referred to in paragraphs 36(1)(b) and (2)(b) of the Act, if the person has not been convicted of a subsequent offence other than an offence designated as a contravention under the Contraventions Act or an offence under the Young Offenders Act; and

(b) (not applicable, omitted)

Rehabilitation

18 (1) For the purposes of paragraph 36(3)(c) of the Act, the class of persons deemed to have been rehabilitated is a prescribed class.

Members of the class

(2) The following persons are members of the class of persons deemed to have been rehabilitated:

(a) persons who have been convicted outside Canada of no more than one offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament, if all of the following conditions apply, namely,

(i) the offence is punishable in Canada by a maximum term of imprisonment of less than 10 years,

(ii) at least 10 years have elapsed since the day after the completion of the imposed sentence,

(iii) the person has not been convicted in Canada of an indictable offence under an Act of Parliament,

(iv) the person has not been convicted in Canada of any summary conviction offence within the last 10 years under an Act of Parliament or of more than one summary conviction offence before the last 10 years, other than an offence designated as a contravention under the Contraventions Act or an offence under the Youth Criminal Justice Act,

(v) the person has not within the last 10 years been convicted outside Canada of an offence that, if committed in Canada, would constitute

EXAMPLE

an offence under an Act of Parliament, other than an offence designated as a contravention under the Contraventions Act or an offence under the Youth Criminal Justice Act,

(vi) the person has not before the last 10 years been convicted outside Canada of more than one offence that, if committed in Canada, would constitute a summary conviction offence under an Act of Parliament, and

(vii) the person has not committed an act described in paragraph 36(2)(c) of the Act, other than the one for which they have been convicted;

(b) (not applicable, omitted)

(c) (not applicable, omitted)

Admissibility analysis

The Applicant was convicted outside Canada. The applicable statutory provisions are therefore paragraph 36(1)(b) of IRPA for serious criminality and, for any lesser foreign conviction equivalents, paragraph 36(2)(b) for criminality. Paragraphs 36(1)(a) and 36(2)(a) apply to convictions in Canada and do not apply here. Paragraphs 36(1)(c) and 36(2)(c) apply to acts committed outside Canada. They are not the primary basis for this opinion because the Applicant has foreign convictions.

Offence 1 was based on the Applicant operating a motor vehicle after his licence had been revoked. On the available facts, the Canadian equivalent is operation while prohibited under subsection 320.18(1) of the Criminal Code of Canada. Under subsection 320.19(5), this offence may be prosecuted by indictment and is punishable by imprisonment for a term of not more than 10 years.

This offence alone is sufficient to make the Applicant inadmissible on grounds of serious criminality under paragraph 36(1)(b) of IRPA.

Offences 2 to 5 were based on failures to submit required financial statements, failure to disclose the object of taxation to the authority, and submitting a false tax declaration. On the available facts, the Canadian equivalents fall under subsection 239(1) of the Income Tax Act, including false or deceptive statements and wilful evasion, or attempted evasion, of compliance with the Act or payment of taxes.

EXAMPLE

Under the Income Tax Act, a person charged with an offence described in subsection 239(1) may be prosecuted by indictment and, if convicted, is liable to imprisonment for a term not exceeding 5 years. Under paragraph 36(3)(a) of IRPA, an offence that may be prosecuted either summarily or by indictment is deemed to be an indictable offence, even if it was prosecuted summarily. These convictions therefore also make the Applicant inadmissible on grounds of criminality under paragraph 36(2)(b) of IRPA.

The tax-offence equivalents do not independently support serious criminality under paragraph 36(1)(b), because the Canadian indictable maximum for the Income Tax Act equivalents is less than 10 years. The serious criminality finding follows from the Canadian equivalent of Offence 1. The tax-offence equivalents separately support criminality under paragraph 36(2)(b).

Rehabilitation – ineligible to apply:

Under paragraph 36(3)(c) of IRPA, inadmissibility arising from paragraphs 36(1)(b) and 36(2)(b) may be overcome if, after the prescribed period, the person satisfies the Minister that they have been rehabilitated.

Under paragraph 17(a) of the Immigration and Refugee Protection Regulations (IRPR), the prescribed period is five years after completion of the imposed sentence for matters under paragraphs 36(1)(b) and 36(2)(b), provided the person has not been convicted of a subsequent offence.

The Applicant's fine sentences for Offences 2, 3 and 4 were executed on March 18, 2025. For Offence 5, the fine was converted into community service of 5 months at 30 hours per month, which commenced in May 2025 and has not been served since. On the information provided, the sentence for Offence 5 has not been completed. The five-year prescribed period has therefore not yet begun to run.

The Applicant is not currently eligible to apply for individual rehabilitation. If the community service sentence is completed in 2025 and there are no subsequent convictions and no remaining uncompleted sentence components, the earliest eligibility date would be five years after completion of that sentence. If the sentence is completed later, the eligibility date will move accordingly.

EXAMPLE

Deemed rehabilitation – not available:

Section 18 of the IRPR does not apply. Paragraph 18(2)(a) applies only where the person has been convicted outside Canada of no more than one offence that, if committed in Canada, would constitute an indictable offence punishable in Canada by a maximum term of imprisonment of less than 10 years, and the remaining statutory conditions are met.

The Applicant has five foreign convictions. In addition, the Canadian equivalent of Offence 1 is punishable by a maximum term of imprisonment of 10 years. He therefore does not fall within the prescribed class of persons deemed to have been rehabilitated.

Temporary Resident Permit – eligible to apply:

The Applicant may apply for a Temporary Resident Permit under section 24(1) of IRPA. If granted, the permit would authorize his presence in Canada as a temporary resident for the period specified in the permit.

A Temporary Resident Permit is discretionary and does not remove the underlying ground of inadmissibility.

Humanitarian and compassionate considerations – eligible:

Under section 25(1) of IRPA, the Applicant may request an exemption from his inadmissibility on humanitarian and compassionate grounds in the context of a permanent residence application. The statutory bar for inadmissibility under sections 34, 35, 35.1 and 37 does not apply, because the Applicant's inadmissibility arises under section 36.

If the Minister determines that humanitarian and compassionate considerations warrant relief, the Applicant may be granted permanent resident status or an exemption from the inadmissibility ground. Unlike a Temporary Resident Permit, a successful humanitarian and compassionate request may result in a grant of permanent resident status notwithstanding the underlying criminal inadmissibility.

Ministerial relief – not available:

Ministerial relief under section 42.1 of IRPA is not available for this case. Section 42.1 applies only to inadmissibility matters referred to in section 34, paragraph 35(1)(b), and subsection 37(1). The Applicant's inadmissibility arises under section 36.

EXAMPLE

Conclusion

The Applicant is inadmissible to Canada on grounds of serious criminality under paragraph 36(1)(b) of the Immigration and Refugee Protection Act.

The Applicant is also inadmissible on grounds of criminality under paragraph 36(2)(b) of the Immigration and Refugee Protection Act.

The Applicant is not deemed rehabilitated under section 18 of the Immigration and Refugee Protection Regulations.

On the information provided, the Applicant is not currently eligible to apply for individual rehabilitation because the sentence for Offence 5 has not been completed and the five-year prescribed period has not yet begun. Ministerial relief is not available because section 42.1 of IRPA does not apply to inadmissibility under section 36.

The Applicant may request a Temporary Resident Permit. Humanitarian and compassionate relief may also be available in the context of a permanent residence application.

Sincerely,

Immigration Lawyer

EXAMPLE