

Ministry of Citizenship & Immigration Guidelines for Living donation VISA Applications

This purpose of this message is to assist visa officers by offering guidelines on factors which may be taken into consideration when assessing a TRV application from an applicant wishing to enter Canada for the purpose of donating an organ to a Canadian citizen or permanent resident in Canada.

1. Three criteria should guide initial assessment of the application:

i. Evidence of medical compatibility between the donor and the recipient

The visa officer must be satisfied that the potential compatibility of the donor applicant and the recipient has been medically established.

The following documentation is normally required in this regard:

A letter from a Canadian transplant specialist affiliated with a recognized transplant centre* on the letterhead of the transplant centre or of the specialist:

- indicating that a recipient has been identified;
- confirming that the applicant's medical tests have been completed and that the applicant appears to be a potential donor;
- confirming that the transplant centre will undertake the transplant surgery and treatment of the applicant if the applicant is approved as a donor;
- confirming that the applicant's medical assessment, surgery, and hospital stay costs related to the donation are covered under the relevant provincial/territorial health insurance.

Additional medical testing may be expected to occur in Canada.

It is essential for an applicant wishing to enter Canada for the purposes of organ donation to have a letter from a Canadian transplant specialist with the above information. Without such a letter, visa officers have little assurance as to the likelihood of organ donation and potential compatibility. An applicant should be requested to obtain such a letter, which would require him/her to undertake the appropriate tests.

With no letter from a Canadian transplant specialist indicating potential compatibility, the visa officer may refuse the application on the basis of bona fides.

*Note: The accompanying annex lists the recognized Canadian kidney transplant centres.

ii. Evidence of satisfactory financial arrangements

The medical costs of the donor related to the donation are covered by the recipient's provincial/territorial health insurance or through specific provincial/territorial health funding. As previously indicated, the letter from the Canadian transplant specialist should indicate this provincial/territorial coverage. Visa officers must be satisfied that satisfactory financial arrangements have been made to cover costs not related to the organ donation, e.g. for the applicant's transportation to and from Canada as well as for accommodation and living expenses while in Canada. Time frames for medical pre-operative procedures, the surgery itself and the recovery period should be taken into consideration when estimating the applicant's living expenses while in Canada.

Visa officers should request the applicant to provide evidence of private medical insurance coverage as medical conditions unrelated to the transplant process would not be covered by provincial/territorial health care insurance.

iii. Evidence that a sale of human organ is not being transacted

The visa officer must be satisfied on a balance of probabilities that no sale of human organs is taking place. "Sale" means not only the exchange of a human organ for a financial consideration, but may also mean the exchange of an organ for a non-monetary, valuable consideration.

The possibility of both exploitation and financial or other inducement—namely trafficking in human organs—must be carefully examined. Factors to consider may include:

- whether or not the donor and recipient are related to each other;
- the financial and social situations of both the donor and the recipient;
- the donor's understanding of the medical risks and overall health impact of the surgery;
- the circumstances under which the applicant was identified as a potential organ donor;
- local social context (i.e.: is recruitment of live organ donors known to be occurring; are live organ sales known to happen; etc.);
- whether the donor has received or expects to receive a benefit (financial or other) as a direct result of the organ donation; and
- the donor's level of commitment to the donation (i.e.: are there any indicators that the donor is undecided and may choose not to make the organ donation once in Canada).

In instances where the visa office is satisfied that on a balance of probabilities a sale of human organs is indeed taking place, this factor must be part of the assessment of bona fides. If admission to Canada is part of the "valuable consideration" being exchanged for the living organ donation, it is unlikely the applicant will be able to satisfy the visa officer they will leave Canada at the end of their authorized stay.

2. In addition to the three criteria, the officer should also bear in mind other factors that are normally considered relevant to establishing the bona fides of an applicant.

As in any TRV application, the applicant must satisfy the visa officer that their stay in Canada will be a temporary one. A consideration in these circumstances should be whether-if complications arise or follow up care is required following the surgery in Canada-the donor would have access to adequate health care in their home country. Unavailability of adequate local health care facilities might be an inducement to remain in Canada beyond the period of authorized stay. Officers should be satisfied that the prospective donor is indeed the individual submitting the TRV application.

3. If the applicant has been found to be inadmissible for any reason, then the visa officer may wish to consider whether the issuance of a TRP is justified in the circumstances.

As organ donation may be an imminent life and death matter or at least a serious medical quality of life issue for a Canadian citizen or permanent resident, visa officers may wish to consider whether there are compelling factors such as H&C which outweigh the risks due to the inadmissibility.**

Per A24(1), where an officer is of the opinion that the issuance of a TRP is justified in the circumstances, the TRV should be refused. TRP fees are applicable.

While the buying and selling of human organs is illegal in all provinces and territories in Canada, it is a breach of a provincial regulation, not a criminal offence and therefore does not render an applicant criminally inadmissible. Officers should bear in mind, however, that where they have determined organ trafficking is indeed occurring in the particular case before them, and have refused a TRV on the basis that the applicant is not a bona fide visitor but is seeking admission to Canada in exchange for the living organ donation, Canada's national interest is not best served by the issuance of a TRP that facilitates the illegal international trade in human organs.

Annex: List of Canadian Centres doing Kidney Transplants.

1. British Columbia Transplant Centres (British Columbia Transplant Society)

- a). Vancouver General Hospital
- b). St. Paul's Hospital
- c). BC Children's Hospital

2. Alberta Transplant Centres

- a). University of Alberta Hospital Site-, Edmonton
- b). Foothills Hospital, Calgary

(paediatric transplants carried out at the above hospitals)

3. Saskatchewan Transplant Centres

- a) St. Paul's Hospital, Saskatoon

4. Manitoba Transplant Centres

- a). Health Sciences Centre, Winnipeg

5. Ontario Transplant Centres

- a). Hamilton: St. Joseph's Health Care System
b). Kingston: Kingston General Hospital
c). London: London Health Sciences Centre-University Campus
d). Ottawa: Ottawa Hospital, General Campus
e) Toronto
1) Hospital for Sick Children
2) St. Michael's Hospital
3) University Health Network - Toronto Hospital Corp.

6. Quebec Transplant Centres

- a) **Fleurimont C.H. de l'université de Sherbrooke Hôpital-Hôpital Fleurimont**
b) **Montreal**

- Hôpital St. Justine
- Hôpital Maisonneuve Rosemount
- Montreal General Hospital
- Montreal Children's Hospital
- Royal Victoria Hospital
- C. H. de l'université de Montréal - Notre Dame

- c) **Quebec**

- C.H. universitaire de Québec- Hôtel Dieu de Québec

7. Atlantic Provinces Transplant Centre

- a) Queen Elizabeth Hospital, Halifax
b) IWK Hospital - Grace Health Centre for Children, Women and Families

The Canadian Organ Replacement Registry (CORR) provides information on the recognized Canadian kidney transplant centres. The website is:

http://secure.cihi.ca/cihiweb/disPage.jsp?cw_page=RC_4_E
(click on the link to the pdf file, which is available for free)