



REGROUPEMENT DES MAISONS  
POUR FEMMES VICTIMES  
DE VIOLENCE CONJUGALE

Defending Immigrant Women  
Who Are Victims of

# Coercive control

A Guide for Immigration Lawyers



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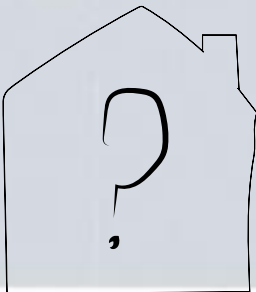
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To learn more about coercive control, please refer to the tool, "Understanding Coercive Control."

The Regroupement provides training on coercive control for social and legal professionals. Contact us for more details on the proposed sessions and terms.

While immigrant women's experience of violence is similar to that of Canadian-born women, domestic violence takes specific forms in an immigration context.

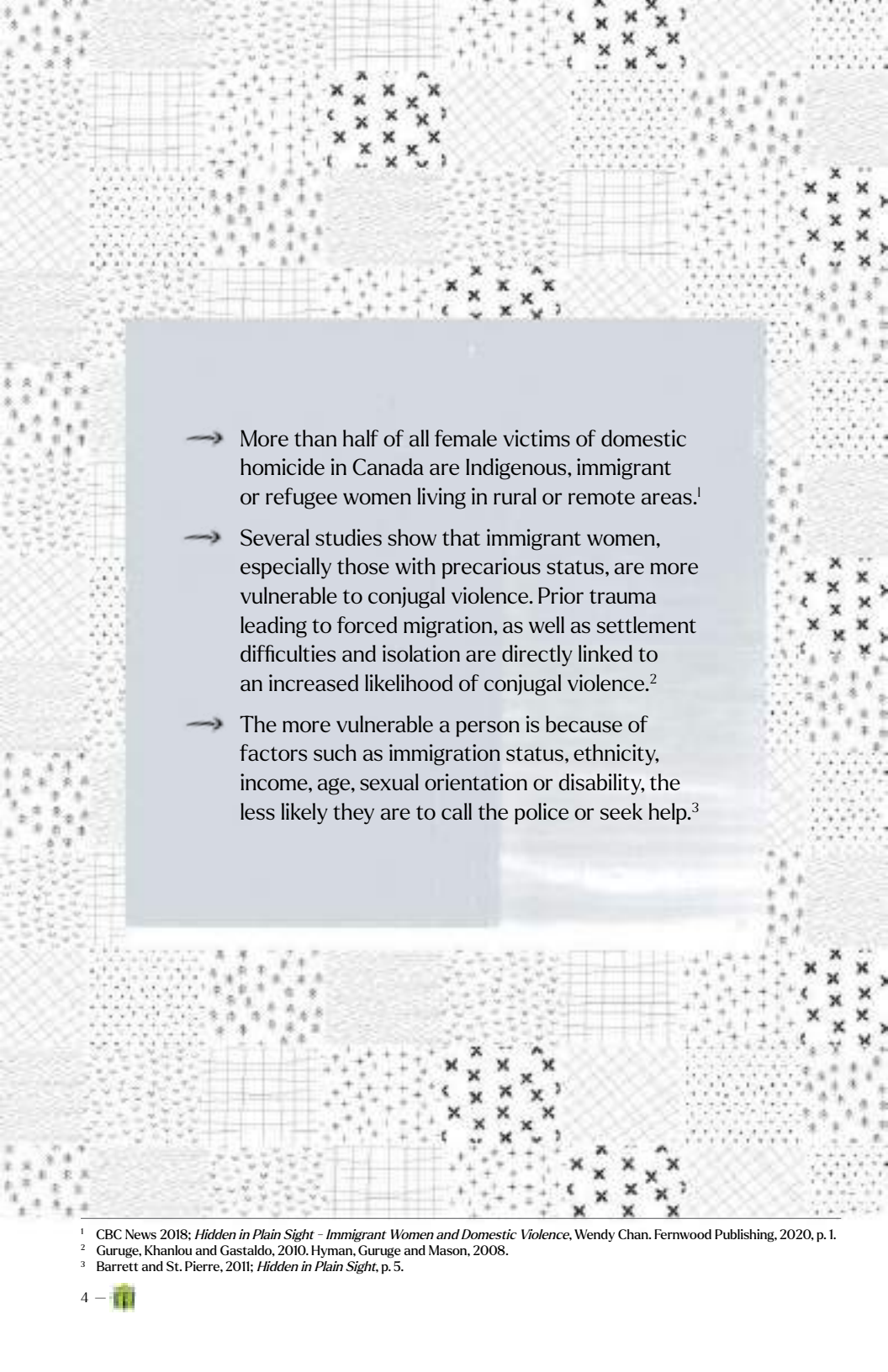
Current data highlights the multiple difficulties immigrant women face when they want to leave a controlling and coercive relationship. They encounter obstacles to accessing services and support networks, including language, precarious immigration status, lack of knowledge of the laws, fear of people not believing their story, disinformation, fear of reprisals from their partner, fear of being deported, financial difficulties and social isolation. All these difficulties increase women's vulnerability and keep them dependent on their partner.

**Lack of access to legal representation can result in a woman losing everything: her status, custody of her children, the right to work, and access to health care. As a lawyer involved in a conjugal violence case, you can play a decisive role in defending the victim's rights, and also, in constructing a safety net for her.**

The aim of this tool is to provide you with pertinent information:

- Coercive control indicators
- Attitudes and skills to adopt for your interviews
- Relevant information for the file: how to document coercive control, required evidence, a procedural checklist and sample letters to attach to your files.



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- More than half of all female victims of domestic homicide in Canada are Indigenous, immigrant or refugee women living in rural or remote areas.<sup>1</sup>
  - Several studies show that immigrant women, especially those with precarious status, are more vulnerable to conjugal violence. Prior trauma leading to forced migration, as well as settlement difficulties and isolation are directly linked to an increased likelihood of conjugal violence.<sup>2</sup>
  - The more vulnerable a person is because of factors such as immigration status, ethnicity, income, age, sexual orientation or disability, the less likely they are to call the police or seek help.<sup>3</sup>

<sup>1</sup> CBC News 2018; *Hidden in Plain Sight – Immigrant Women and Domestic Violence*, Wendy Chan. Fernwood Publishing, 2020, p. 1.

<sup>2</sup> Guruge, Khanlou and Gastaldo, 2010. Hyman, Guruge and Mason, 2008.

<sup>3</sup> Barrett and St. Pierre, 2011; *Hidden in Plain Sight*, p. 5.

# Detecting coercive control and its particular manifestations in the context of immigration<sup>4</sup>

The following elements, considered cumulatively starting with the first meeting with your client, may be a sign that she is being subjected to coercive control. This is not an exhaustive list. Take time to talk with your client to confirm or refute your supposition.

To supplement this list, the "[Manifestations of Coercive Control](#)" tool gives multiple examples of coercive control women may experience.

## 1. Checking for the possibility that your client is being subjected to coercive control

- She is isolated, does not leave her home, never accompanies her children to their activities, participates in no social/work-related activities
- Unlike her partner, she does not attend francization courses, does not speak French or English, cannot read or complete forms
- She meets few or no people; she has no friends
- Her immigration papers and those of the children are kept by the partner and she does not have access to them
- The lease is in the name of the partner only, as are house-related bills
- She is unaware of existing support resources or organizations in her area
- She is afraid to talk and hesitant to trust others
- Her partner appears to control her access to her phone; she does not seem to be free to make appointments.

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<sup>4</sup> This list is based in part on La Méridienne shelter's guide, *Comprendre pour mieux intervenir auprès des femmes immigrantes victimes de violence conjugale*, 2017. [<http://lameridienne.ca/wp-content/uploads/2018/02/guidefanta.pdf>]

- She does not have a bank account in her name; she has to ask her partner for money to provide for her most basic needs
- She has to give her partner any money she earns; she has no control over spending
- She doesn't seem to have any choice concerning contraceptive methods
- She is not aware of the existence of family allowance, or it is not paid in her name, etc.

## 2. Detecting manifestations of coercive control by the abuser

- He threatens to repudiate her or marry a second wife
- He criticizes her skills as a wife and mother
- When sponsorship is an issue, he threatens to send her back to her country or to withdraw sponsorship
- He has her watched by extended family members or neighbours
- He threatens to complain to family in country of origin about behaviours he deems inappropriate
- He makes her believe she will be arrested if she leaves the house
- He sends material goods or money to their home country without her permission or without providing for the family's needs



- He imposes religious, cultural or sexual practices against her will
- He makes all major decisions regarding the family and expects his wife to be at his service
- He prevents her from seeing friends or socializing
- The phone is in his name, he can cut the line whenever he wants
- He controls her access to her phone and social media
- He constantly contacts her to check where she is
- He accompanies her on all trips, appointments, and to her place of work
- He forbids her to associate with people from another culture
- He refuses divorce or separation
- He forces her to sign documents she doesn't understand
- He forbids her to learn English or French, work or study
- He makes her sign, without her knowledge, powers of attorney or authorizations to control her immigration file and access her personal information, etc.



In addition to this list, see the "Family Law: Recognizing and Responding to Coercive Control" tool which lists all the tactics abusers employ to divert the attention of judicial personnel, intimidate the victim or her relatives during the judicial process, or maintain control over her through legal means.

# Understanding the range of barriers to reporting and access to justice

Immigrant women face multiple obstacles to reporting. A few examples:

- Fear of being reported to immigration officers or deported or separated from their children
- Fear related to the partner's threats to have them deported, withdraw sponsorship or revoke their permanent resident status
- The fear felt by sponsored women or women with no status that their partner will file a complaint against them and that a possible conviction could result in denial of permanent residence or deportation
- Fear of child custody consequences if they report their partner
- Fear of having the children taken away by youth protection if they go to a shelter
- Mistrust or fear of the justice system, particularly the police, due to previous experiences in their home country or in Canada
- Lack of access to professional interpretation services or the unreliability of some volunteer interpreting services, especially if they are from the community
- Lack of access to information about their rights and legal remedies due to isolation and language or systemic barriers
- Uninformed about community resources available in the host country
- The complexity of the immigration process and access to information



- Downplaying of the experience of conjugal violence, especially non-physical forms of violence
- Fear of rejection or of damaging the community's and family's image
- Fear of the negative consequences of separation from their cultural community (disgrace, shame, etc.) for them, their family in Canada and in their country of origin
- The daunting problem of finding a lawyer who will accept immigration legal aid cases is compounded in regions that are further away from the major centres
- Being financially dependent on the partner and having no resources of their own
- Economic insecurity is an additional obstacle when it comes to leaving a violent partner
- The lack of a cross-cultural approach to justice services.<sup>5</sup>



**Being aware of these barriers will help you understand how fear, shame and stigma can prevent women from seeking outside help or acknowledging that they are being abused.**



<sup>5</sup> These fears are corroborated by several studies. Fear of discriminatory treatment by criminal justice personnel has been documented by researchers as a reason why many racialized women do not call the police for support (Wachholz and Miedema 2000). Researchers have also found that racialized and immigrant women are more likely to be arrested along with the abuser when defending themselves due to police stereotypes that view these women as more aggressive than non-racialized women (Crenshaw 2012; Mills 2015).

Thibault, Sarah, Geneviève Pagé, and Carole Boulebsol, 2022. *Justice pour les femmes marginalisées victimes de violences sexospécifiques ce que la littérature et les intervenantes nous apprennent*. Montréal: Service aux collectivités de l'Université du Québec à Montréal / Fédération des maisons d'hébergement pour femmes / Regroupement des maisons pour femmes victimes de violence conjugale / Concertation des luttes contre l'exploitation sexuelle / Regroupement québécois des centres d'aide et de lutte contre les agressions à caractère sexuel.

# Representing an immigrant woman who is a victim of conjugal violence

The following section is intended to support you as your client's legal counsellor by providing guidelines for your immigration cases.

## 1. Keep facilitating attitudes and behaviours in mind when conducting interviews<sup>6</sup>

- If you meet with a couple in which the woman appears to be controlled by her partner, a discussion on conflict of interest, conducted with sensitivity, is essential. You can refer the woman to a colleague or to the Rebâtir legal consultation service. Feel free to consult the Info-Déonto service of the Barreau du Québec for your ethical questions.
- Do everything in your power to ensure that your client can communicate in her native language:
  - ➔ Use a professional interpreter who is familiar with the issue of conjugal violence. Even if your client understands the host country language, certain subtleties may escape her and the stakes are too high
  - ➔ Contact the nearest women's shelter for a referral to an interpreter
  - ➔ Avoid using an interpreter from the same family or community for confidentiality reasons.
- Make her feel welcome, listen to her and give her time to think
- Be aware of your own limits and the limits of your field of expertise, and rely on specialized conjugal violence resources. They will be able to take on the psychosocial support aspect which will relieve you of a certain burden and will be of precious help to the victim

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<sup>6</sup> This list is based on a series of interviews conducted with women's shelters, lawyers who represent victims of conjugal violence, and the online training course *Accueillir les femmes victimes de violence conjugale issues de l'immigration*, developed by the shelter La Re-Source. <https://lare-source.org/formation/#/>

- Explain your role, your obligation to professional secrecy and take the time to explain certain concepts and procedures
- Outline the different scenarios and options available to her, weighing the pros and cons of each, so that she can make an informed choice
- Check her understanding of the material presented. Ask her what is most difficult for her and what seems more accessible. Regularly encourage her to ask questions
- Guide her so that she has as much information and resources as possible, but respect her decisions—the final decision is hers
- Be sensitive to body language and non-verbal cues even when an interpreter is present
- Be aware of the authority relationship that comes with your position and try to close the power gap by making her feel comfortable. Encourage informal verbal interactions
- Adopt an accessible vocabulary that does not infantilize her
- Avoid using the term “conjugal violence,” which many victims do not identify with, and instead talk about control and violence
- Let your client know that violence is not acceptable and that it is not her fault
- Remind her of some basic rights such as the right to leave her partner, the right to be supported, and the right to live without violence
- Be aware that your cultural background may be different from hers and that reactions to a crisis situation may differ. Adopt a non-judgmental and welcoming attitude
- Remember that the legal system in her home country is different and she is not necessarily familiar with her host country’s laws.



## 2. Building a network for the victim and making connections with shelters

- Inform her that as a person who has experienced acts that are prohibited in Canada, she can seek and find help.
- Always refer your client to services for victims:
  - Explain the role of resources and support workers using a holistic approach that are available to her: CAVAC, shelters, Rebâtir, women's centres, etc.
  - Mention that these resources are free and confidential, that her pace will be respected, and that she does not have to leave her partner
  - Remind her that she is free to use them or not and that she can take the time to think about it
  - Suggest the services of a psychologist who has experience with conjugal violence
- Explain the role of conjugal violence shelters, which are open 24/7:
  - Crisis line for immediate, timely and confidential support as needed
  - Shelter
  - Non-shelter services, including counselling, accompaniment and support in the process of regaining control over one's life: finding housing, setting up safety plans, applying for social assistance, medical and administrative procedures, immigration applications, etc.
  - Children also receive support to deal with their own experience.

- Seek the support of shelter workers to assist you in representing your client. Given the special relationship of trust they have with the victim and their knowledge of her life history, they can help you to:
  - Make an appointment with your client
  - Prepare your client before each appointment
  - Clarify her immigration status
  - Reconstruct the chronology of events, her story
  - Build your case by collecting relevant documents
  - Take notes for your client and go over it with her later.



### 3. Confirming that the woman is not in immediate danger

- ❑ Beyond immigration status, pay particular attention to safety issues for both your client and her children
- ❑ Focus on interventions that prioritize the victim's safety and that of her loved ones. For example: "Do you feel safe to leave my office?"
- ❑ "Does your ex-partner know that you are here?," "Do you want someone to accompany you to the metro or bus?"<sup>7</sup>
- ❑ Be aware that more than one person may be committing violence in the family home or even in the neighbourhood
- ❑ Check for warning signs; refer to the list of risk factors to watch for ("Coercive Control as a Predictor of Homicidal Risk - Section C: Detecting Warning Signs")
- ❑ If you are worried, refer your client to the shelter network; shelters are best placed to assess the situation and support the woman while respecting her pace and, if necessary, put a safety net in place
- ❑ The shelter closest to the victim's home will assess the need, if any, to engage other partners to provide a safety net and develop a collaborative plan of action
- ❑ Check whether your client has a support worker: CAVAC, psychologist, social worker, etc.
- ❑ If she does not want to use a resource, make sure she has a trusted friend or family member to support her
- ❑ For more information about this, see "Coercive Control: Predictor of Homicidal Risk".

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<sup>7</sup> *HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers*. Department of Justice, Government of Canada (undated) [<https://www.justice.gc.ca/eng/fl-df/help-aide/overview-apercu.html>].

## 4. Assembling the file

- Describe your client's sense of fear, immediate or chronic
- Describe the trauma she has experienced and its impact on her ability to testify, both in conducting the interview and in assessing her credibility
- Highlight the cumulative impact of controlling and coercive behaviours on the victim: limitations on daily activities, control of the immigration process, confiscation of identity papers, threats to report to authorities, restrictions on her freedom, etc.
- Determine the consequences for the victim of following or not following the abuser's rules
- Use affidavits from witnesses (family, friends, neighbours), medical reports, reports from caseworkers, social workers, shelters, etc., that present the overall situation and the state of your client's physical and psychological health; these are important items to include as evidence
- Research prior incidents of conjugal violence in the country of residence
- Highlight potential safety risks to your client: coercive control is a significant predictor of homicidal risk
- Concern for the children's physical and psychological safety should not be separate from concern for their mother's safety
- Determine if there are any prior or concurrent civil or criminal proceedings, as they may affect pending proceedings related to her immigration status: arrests, restraining orders or other restrictive orders, court dates and possible consequences
- Refer to the (non-exhaustive) list of evidence that can be used to document abuse provided by Immigration, Refugees and Citizenship Canada<sup>8</sup>
- "Family Law: Coercive Control Screening and Intervention" presents useful additional information.

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<sup>8</sup> Immigration, Refugees and Citizenship Canada [<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/service-delivery/abuse/evidence.html>]

# Resources to help you assemble your case file<sup>9</sup>

This section provides you with information as well as access to forms and sample letters to include in your file, depending on the type of immigration application you are requesting.

## Application for Asylum

Women who are victims of conjugal violence can apply for asylum on the basis of family violence. Their situation is then dealt with according to gender considerations stipulated under the *Immigration and Refugee Protection Act*.<sup>10</sup>

- Inform a claimant who is a victim of conjugal violence that she has the right to request that her claim be reopened to include a new ground for persecution
- Depending on the circumstances, you may be able to make a Request for Adjudication by the Gender Related Task Force.<sup>11</sup> The GRTF, established by the Immigration and Refugee Board of Canada (IRB), has received specialized training to hear and decide gender-based refugee claims
- Use procedural accommodations.<sup>12</sup> For example, you can ask:
  - ➔ That the claimant be accompanied by a social worker
  - ➔ To have a female commissioner or interpreter
  - ➔ For more breaks during the hearing, etc
- You may be able to get reimbursed for steps taken before the hearing, such as GRTF or vulnerable person applications

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<sup>9</sup> All of the documents listed in this section were kindly shared with us by Virginie Beaubien, lawyer and member of the board of directors of the Association québécoise des avocats et avocates en droit de l'immigration (AQAAD) and Marie-Andrée Fogg, lawyer at Rebâtir.

<sup>10</sup> Immigration and Refugee Board of Canada (IRB), Chairperson's Guideline 4: *Gender Considerations in Proceedings Before the Immigration and Refugee Board*, 2022. [<https://irb.gc.ca/en/legal-policy/policies/Pages/GuideDir04.aspx>]  
(Note: This replaces *Chairperson's Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*.)

<sup>11</sup> Online form: [https://irb.gc.ca/en/forms/Documents/RpdSpr5302\\_e.pdf](https://irb.gc.ca/en/forms/Documents/RpdSpr5302_e.pdf)

<sup>12</sup> The "vulnerable person" guidelines include victims of conjugal violence. Filing an application for recognition as a vulnerable person allows for certain procedural accommodations. See IRB, *Chairperson's Guideline 4*.



To help you prepare your file, here<sup>13</sup> is a list of relevant documents:

1. **Checklist**
2. **Prior Authorization Request for Expert Evidence**
3. **Request for a Copy of a File**
4. **Request for Separation of Claims**
5. **Application for Identification and Recognition of a Vulnerable Person**



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<sup>13</sup> If you have the printed version of this guide, all the documents are available on the Regroupement's website at the following address: [www.https://maisons-femmes.qc.ca/publications/boite-a-outils-comprendre-reperer-et-intervenir-face-au-controle-coercitif/](https://maisons-femmes.qc.ca/publications/boite-a-outils-comprendre-reperer-et-intervenir-face-au-controle-coercitif/)

# Temporary Resident Permit for Victims of Family Violence

As of July 2019, out of status women living in Canada whose immigration application is dependent on a violent partner can apply for a fee-exempt, expedited temporary resident permit for themselves and their children.

This permit provides access to temporary resident status, a work permit and health care coverage.<sup>14</sup>

To help you prepare your file, here<sup>15</sup> is a list of relevant documents:

1. **Checklist**
2. **TRP Template Letter**

## Application for Permanent Residence on Humanitarian Grounds

In the event that spousal/partner sponsorship is withdrawn, your client may be able to apply for expedited permanent residence on humanitarian and compassionate grounds.

In some cases, due to the control exercised by the violent partner and resulting isolation, your client may not meet the required criteria for integration and autonomy. In such cases, it is advantageous to focus on compassion. You can produce a detailed narrative of the difficulties she has encountered, for example, detail her psychological distress with supporting evidence of medical problems.<sup>16</sup>

*The checklist for this application will be posted online as soon as possible.*

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<sup>14</sup> Temporary Resident Permit (TRP) for Victims of Family Violence, Immigration, Refugees and Citizenship Canada (IRCC) [online] [<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/family-violence.html>]

<sup>15</sup> *Op. cit.*, note 13.

<sup>16</sup> Excerpt of a presentation by Guillaume Cliche-Rivard - Cliche-Rivard Avocats, formerly president of the Association québécoise des avocats et avocates en droit de l'immigration (AQAADI)





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