

Federal Court Trends – August 2026

Start Up Business Class



September 29, 2026



READING TIME **6 MINUTE READ**

Overview

In August 2026, the Federal Court released two decisions reviewing refusals of permanent residence under the Start-Up Business Class: *Punjwani v Canada (Citizenship and Immigration)*, 2026 FC 1033, and *Sharif v Canada (Citizenship and Immigration)*, 2026 FC 1039. Both applications for judicial review were dismissed, but the refusals arose under different provisions of the *Immigration and Refugee Protection Regulations, SOR/2002-227 (IRPR)*.

Punjwani concerned paragraph 89(b), which addresses transactions entered into primarily to obtain immigration status rather than to engage in the proposed business. *Sharif* concerned section 98.06 and whether the applicants had established a qualifying business, including a genuine intention to conduct the required management and operations in Canada after receiving permanent residence.

Read together, the decisions show why the precise refusal ground matters. The forward-looking exception in subsection 98.06(2) may answer a concern that the business does not yet operate fully in Canada. It does not answer a conclusion under paragraph 89(b) that the underlying commitment was entered into primarily for immigration purposes. The evidence must be directed to the legal question the officer is deciding.

The Statutory Distinction

Qualifying Business and Future Intention

Paragraph 98.01(2)(d) requires an applicant to have a qualifying business. Under subsection 98.06(1), the applicant must provide active and ongoing management from within Canada; an essential part of the business operations must be conducted in Canada; the business must be incorporated in Canada; and the ownership structure must comply with the prescribed percentages.

Subsection 98.06(2) recognizes that some of these requirements may not be satisfied before permanent residence is granted. A business may still qualify if the applicant intends to meet the Canadian management, operations and incorporation requirements after receiving a permanent resident visa. This provision permits future compliance, but it does not make a stated intention conclusive. The intention must still be supported by the record.

Artificial Transactions

Paragraph 89(b) asks a different question. An applicant is not considered to have met the Start-Up Business Class requirements where the relevant transaction was entered into primarily to acquire a status or privilege under the *Immigration and Refugee Protection Act* rather than to engage in the proposed business. The focus is the purpose and commercial reality of the arrangement. Evidence that an applicant plans to establish operations later does not, by itself, resolve that concern.

Punjwani and Artificial Transactions

The three applicants were owners of Allsmosis Technologies Inc., a Canadian start-up proposing to develop and market a reverse-osmosis water-filtration system. They obtained a commitment certificate and letter of support from VANTEC Angel Network Inc. Ms. Punjwani and another founder were identified as essential members of the business.

After issuing a procedural fairness letter, the officer refused Ms. Punjwani's application under paragraph 89(b). The officer relied on several concerns: another company's products appeared in the business submissions; Ms. Punjwani had spent little time in Canada and provided limited evidence of what she did during her visits; the applicants' experience did not clearly establish their ability to develop the proposed technology; business activity appeared limited or delayed; and the designated organization's due diligence raised concerns. Taken together, the officer found that the commitment had been entered into primarily to obtain immigration status (*Punjwani* at paras 7-9, 28-35).

The applicants' main written argument was that subsection 98.06(2) allowed them to complete the Canadian operational requirements after obtaining permanent residence. The Court held that this argument did not address the actual refusal ground. The officer was not deciding whether Allsmosis already met the qualifying-business requirements. The officer was deciding whether the commitment was an artificial transaction under paragraph 89(b). The provisions are distinct, and subsection 98.06(2) does not create an entitlement to postpone answering concerns about the genuine purpose of the arrangement (*Punjwani* at paras 23-28).

The Court also rejected an argument based on the difficulties Ms. Punjwani allegedly faced in relocating because her spouse's visa had been refused. That explanation was not included in her response to the fairness letter.

The response referred only generally to relocation difficulties. The officer could not be faulted for failing to consider a material explanation that had not been provided when the administrative record was open (*Punjwani* at paras 29-33).

A procedural-fairness argument was also raised for the first time at the judicial-review hearing. The Court retained discretion to hear a new argument where the interests of justice required it but declined to do so on this record. The argument had not been developed in writing, and the respondent had not had a proper opportunity to address it (*Punjwani* at paras 36-38).

The refusal also affected the other founders. Under subsection 98.08(2), where an applicant identified as essential is refused a permanent resident visa, the applications of the other persons associated with the same business must also be refused. Once Ms. Punjwani's refusal was upheld, the consequential refusals followed by operation of law (*Punjwani* at paras 39-40).

Sharif and the Evidence of a Qualifying Business

The applicants were three Bangladeshi co-founders of DetectFresh, a British Columbia corporation proposing to develop a mobile application. Their applications had initially been refused under paragraph 89(b), but that proceeding was discontinued and the matters were returned for redetermination. The new officer raised a different concern: whether DetectFresh was a qualifying business given the limited evidence of business activity (*Sharif* at paras 9-16).

The applicants provided documents concerning potential office space, a sublease, a proposed office administrator, a corporate tax return, networking and mentorship events, meeting notes and a marketing consultation concerning LinkedIn. The officer acknowledged those materials but found no meaningful update regarding development of the mobile application at the centre of the venture. The record also did not show progress on collaborations the applicants themselves had identified as important next steps (*Sharif* at paras 15-20).

On judicial review, the applicants argued that the officer ignored subsection 98.06(2) and imposed requirements that were not found in the legislation. The Court disagreed. The officer repeatedly referred to the applicants' intention to operate in Canada and examined the steps that could have demonstrated that intention. The decision did not treat existing Canadian operations as an absolute precondition to permanent residence (*Sharif* at paras 26-30).

The problem was not that the venture lacked a completed product or a particular Canadian collaboration. The problem was that the evidence did not substantiate the applicants' asserted intention through meaningful progress on the core business. Since their own materials identified the collaborations as part of the business's intended development, the officer was entitled to examine whether those plans had advanced. The Court concluded that the applicants were effectively asking it to reweigh evidence that the officer had considered and found insufficient (*Sharif* at paras 29-33).

Practical Implications

The two decisions do not establish a new checklist for Start-Up Business Class applications. Their principal lesson is that formal steps and commercial substance are not interchangeable.

Incorporation, a commitment certificate, office arrangements, networking and a detailed business plan may support an application, but their significance depends on what they demonstrate about the actual venture and the particular statutory requirement in issue.

- Identify the exact refusal ground in the fairness letter, refusal letter and GCMS notes before preparing a response or commencing judicial review.
- For a concern under paragraph 89(b), address the commercial purpose of the venture, the founders' actual contributions, relevant experience, product development and any facts that may suggest the arrangement is immigration-driven.
- For a concern under section 98.06, connect future intentions to dated evidence of work completed, current progress, responsible persons, milestones and a realistic plan for Canadian operations.
- Explain inconsistencies, delayed activity, third-party materials and departures from the business plan directly while the administrative record remains open.
- Review all associated applications together where one or more founders are identified as essential.
- On judicial review, identify a material error in the reasons or process. A request that the Court give greater weight to the same evidence is unlikely to succeed.

Conclusion

Punjwani and Sharif demonstrate that paragraph 89(b) and section 98.06 address different risks within the Start-Up Business Class. One examines whether the arrangement is genuine in purpose; the other examines whether the record establishes a qualifying business, including a supported intention to satisfy the Canadian operational requirements after permanent residence.

A commitment certificate and a forward-looking business plan remain important, but neither displaces the officer's assessment of the evidence. The strongest protection against refusal, and the strongest record for any later judicial review, is evidence that connects the founders, their work and their stated plans to genuine progress on the venture's core business.