

Congress of the United States
Washington, DC 20515

September 26, 2023

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20016

RECEIVED
By ESEC at 12:39 pm, Sep 26, 2023

Dear Secretary Mayorkas:

We write to bring to your attention a disparity in the treatment of the family members of our diplomatic service. Current U.S. policy prohibits immigrant petitions of foreign national spouses of U.S. diplomatic personnel from being filed and adjudicated overseas. This situation results in a more time-consuming process that causes financial hardships for the families of U.S. diplomatic personnel who are required to travel to the United States to file a petition to be able to have their spouse return home with them.

As you know, a U.S. citizen or Lawful Permanent Resident (LPR) may file a petition on behalf of a relative, using the Petition for Alien Relative (Form I-130). Generally, these family-sponsored petitions must be filed with U.S. Citizenship and Immigration Services (USCIS). However, there are circumstances in which the Department of State (DOS) may accept and adjudicate a Form I-130.

USCIS has granted DOS blanket authorization to accept Form I-130 petitions filed on behalf of immediate relatives by U.S. citizen military service members assigned to military bases abroad, even in countries with a USCIS presence. This blanket authorization does not apply to service members assigned to non-military organizations, such as U.S. embassies, international organizations, or civilian institutions, nor to service members on temporary duty orders. DOS employees based overseas do not have the same benefit of this blanket authorization. Any I-130 forms that they file on behalf of a prospective immigrant spouse or immediate relative must be filed with USCIS.

This disparity appears to be unnecessary, unfair, and we believe it should be corrected.

We believe that the service of our diplomatic personnel, who are often deployed to locales that place them at considerable risk, are worthy of the same considerations as U.S. military personnel. It is important that all our government personnel serving overseas, civilian and military, deserve the recognition and appreciation of a grateful nation.

With this in mind, we note that the USCIS policy manual section regarding the treatment of spouses of overseas-based U.S. military personnel makes no reference to Title 8 of the U.S. Code (Immigration and Nationality, also known as the Immigration and Nationality Act) regarding its

authority to delegate such functions to DOS, but 8 USC 1103 (a) (6), INA 103 (a) (6) provides this authority as follows:

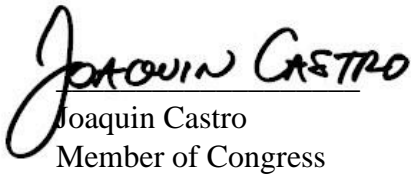
“He [the Secretary of Homeland Security] is authorized to confer or impose upon any employee of the United States with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Service.”

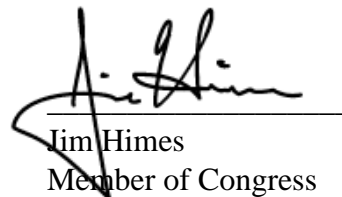
Therefore, it appears that the provision relating to the filing of petitions for military spouses falls within a general authority of DHS to delegate certain functions to DOS, and it does not appear that there was any legislative intent involved.

We believe it is within the authority of the Secretary to review this policy to ensure that our diplomatic personnel are treated fairly. We can think of no just reason why the immigrant petitions filed on behalf of immediate relatives from Department of State employees should be treated differently than the petitions of military servicemen and women stationed overseas.

Thank you for your consideration. We look forward to your reply.

Sincerely,


Joaquin Castro
Member of Congress


Jim Himes
Member of Congress

cc: The Honorable Antony J. Blinken, Secretary of State



**U.S. Citizenship
and Immigration
Services**

November 28, 2023

The Honorable Joaquin Castro
U.S. House of Representatives
Washington, DC 20515

Dear Representative Castro:

Thank you for your September 26, 2023 letter to the Department of Homeland Security. I am responding on behalf of the Department.

On January 31, 2022, U.S. Citizenship and Immigration Services (USCIS) informed the Assistant Secretary of State for Consular Affairs that USCIS extended blanket authorization for the Department of State to accept and adjudicate Form I-130 immediate relative petitions filed by U.S. citizen government employees assigned to U.S. embassies and consulates. Under this expanded blanket authorization, the Department of State is authorized to exercise its discretion whether to accept and approve clearly approvable immediate relative Form I-130 petitions from U.S. citizen military service members and U.S. citizen government employees assigned to military bases and U.S. embassies and consulates, even in countries where USCIS has a presence. USCIS defers to the Department of State to comment on the extent to which they have utilized this expanded blanket authority. USCIS will be updating its Policy Manual to reflect the extension of blanket authorization for Form I-130 petitions filed overseas to certain U.S. government employees who are not military service members.

If a petitioner who is abroad is not permitted to file locally the petitioner may still file a Form I-130 petition with a USCIS lockbox by mail or online and may request expedited processing for that petition in accordance with the published USCIS expedite process and criteria.

The Honorable Joaquin Castro
Page 2

Thank you again for your letter and interest in this important issue. Representative Himes, the cosigner of your letter, will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal line extending to the right.

Ur M. Jaddou
Director