



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 25334899

Date: APR. 5, 2023

Appeal of National Benefits Center Decision

Form I-485, Application to Register Permanent Residence or Adjust Status

The Applicant, a native and citizen of Pakistan, seeks to adjust status to that of a lawful permanent resident (LPR) under Section 13 of the 1957 Immigration Act (Section 13). *See* Section 13, Pub. L. No. 85-316, 71 Stat. 642, amended by Pub. L. No. 97-116, 95 Stat. 161 (1981), 18 U.S.C. § 1255b. Under Section 13, a foreign national previously in diplomatic status (A or G visa holders), who performed diplomatic or semi-diplomatic duties and who establishes that there are compelling reasons why they (or an immediate family member) are unable to return to the home country, may be adjusted to LPR status if they are a person of good moral character and admissible to the United States, and if adjustment is in the national interest and not contrary to the national welfare, safety, or security.

The Director of the National Benefits Center denied the Form I-485, Applicant to Register Permanent Residence or Adjust Status (adjustment application), concluding that the Applicant did not establish compelling reasons why he would be unable to return to Pakistan. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 13 is an adjustment of status category for noncitizens who can demonstrate, in part: (1) failure to maintain A-1, A-2, G-1, or G-2 nonimmigrant status as of the application's filing date;¹ (2) performance of diplomatic or semi-diplomatic duties by the principal on behalf of the accrediting country; and (3) inability, because of compelling reasons, to return to the country that accredited the noncitizen. 8 U.S.C. § 1255b; 8 C.F.R. § 245.3.²

¹ The A nonimmigrant classification is for diplomats and foreign government officials (principals) as well as their immediate family members. The G nonimmigrant classification is for employees of certain international organizations (principals) and their immediate family members. 8 C.F.R. § 214.2(a), (g).

² If the first three eligibility requirements are met, an applicant must also establish that: compelling reasons demonstrate

II. ANALYSIS

The issue on appeal is whether the Applicant has established his inability, because of compelling reasons, to return to Pakistan. The record reflects that the Applicant was admitted to the United States in A-2 nonimmigrant status on July 8, 1998, to work for the Pakistani consulate in [redacted] California in the position of consular attaché. The Applicant's then-wife and four children joined him in August 1998 in A-2 nonimmigrant status. The Applicant's A-2 nonimmigrant status was terminated in July 2001, and on April 12, 2021, he filed the instant adjustment application requesting LPR status under Section 13.

The Applicant stated in his adjustment application that his duties at the Pakistani consulate included signing passports and visas, public relations work with the Pakistani community and nonprofit organizations, organizing national day events, creating protocol duties with official dignitaries, and dealing with the U.S. Department of State in relation to personnel matters. He mentioned that he was offered bribes by numerous officials over the years, and he fears for his family due to refusing the bribes and his previous work with the Pakistani government. The Applicant further stated that he and his family remained in the United States at the end of his tenure due to the hostile situation in Pakistan, and Pakistan currently has issues with terrorism, religious intolerance, safety issues for women, and gender discrimination. The Applicant detailed his children's academic, professional, and community service accomplishments while residing in the United States and stated he and his family would be subjected to criminal attacks in Pakistan due to their political beliefs, his daughter's sexual orientation, and his children being atheists.

In his sworn personal statement before a USCIS officer, the Applicant stated that there was an inquiry about some of the visas he issued while working at the Pakistani consulate, he was interviewed by a military officer in the embassy who said he issued visas to "some bad people," he was subsequently terminated from his position in July 2001, and he fears being put in jail or being kidnapped in Pakistan due to "these false allegations" against him.

The Director referenced the Applicant's claim that he is fearful his family would be persecuted due to his previous work with the Pakistani government, and that Pakistan is not safe due to terrorism, poverty, and intolerance. The Director concluded that the Applicant did not present specific reasons why he or his family members would be targeted by the Pakistani government or would be at a risk of harm because of his past government employment, political activities, or other related reasons. The Director acknowledged the difficulties the Applicant might face upon return to Pakistan but explained that compelling reasons under Section 13 did not include general inconveniences and hardships associated with relocation, the risks or dangers experienced by the population as a whole, or a desire to remain in the United States. Based on the foregoing, the Director concluded that the Applicant did not establish his inability, because of compelling reasons, to return to Pakistan.

On appeal, the Applicant states he fears the Pakistani army, he fears persecution due to the duties he performed at the Pakistani consulate, he was held responsible for issuing Pakistani visas to a few

that the adjustment would be in the national interest and would not be contrary to the national welfare, safety, or security of the United States; and he or she is of good moral character and admissible to the United States. Discussion of these remaining criteria is generally unnecessary in cases where the first three eligibility criteria have not been met.

individuals under investigation by the Pakistani Intelligence Agency, he was forced by Pakistani investigators to admit to things he did not know about, and his “admissions led towards treason.” The Applicant includes an article related to the Pakistani ambassador to the United States in 2008 who was accused of treason in Pakistan. We have reviewed the entire record, as supplemented on appeal, and conclude that the Applicant has not overcome the basis for the denial of his request for adjustment of status under Section 13.

As stated, a Section 13 applicant must show:

Compelling reasons demonstrating both that the alien is *unable to return* to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest.

8 U.S.C. § 1255b(b) (emphasis added). Neither the statute nor the regulation at 8 C.F.R. § 245.3 defines the term “compelling reasons” or describes the factors to be considered. There is also no binding precedent that addresses the meaning of “compelling reasons” or that could otherwise provide guidance. *See Jabateh v. Lynch*, 845 F.3d 332, 339 (7th Cir. 2017) (recognizing that the Board of Immigration Appeals does not have jurisdiction over Section 13 denials). Accordingly, it is instructive to look at the legislative history of the classification, as such history can be “helpful to corroborate and underscore a reasonable interpretation of the statute.” *Matter of Punu*, 22 I&N Dec. 224, 227 (BIA 1998) (citing *Weinberger v. Rossi*, 456 U.S. 25, 32 (1982)).

When originally introduced in Congress in 1957, the purpose of Section 13 was to accord LPR status to “[t]hose high ranking Government officials and their immediate families who have come here as diplomatic representatives, or representatives of their countries to the United Nations [and who], [b]ecause of Communist and other uprisings, aggression, or invasion . . . are left homeless and stateless.” 85th Cong., 103 Cong. Rec. 14660. The enacted legislation required a foreign national to have failed to maintain his or her A or G nonimmigrant status, demonstrate that he or she is a person of good moral character and admissible to the United States, and that adjusting the foreign national’s status would not be contrary to the national welfare, safety, or security of the United States.³ The statute did not, however, contain explicit language requiring a foreign national to show compelling reasons demonstrating both an inability to return to the country of accreditation or that the adjustment would be in the national interest. Rather, the compelling reasons language was added by the Immigration and Nationality Act Amendments of 1981.⁴ Congress noted that this amendment “[r]eaffirms the original intent of Congress by requiring that the status of an alien diplomat cannot be adjusted to permanent residence status . . . unless the alien has shown compelling reasons” H.R. Rep. No. 97-264 (1981).

The need for this “reaffirming” and corrective legislation is explained in the Congressional record. During prior years, Congress opposed the recommended approval of numerous Section 13 applications

³ Congress also capped the number of persons who could be granted permanent residency to 50 per year, and required that “[a] complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. . . .” 8 U.S.C. § 1255b(c).

⁴ Pub. L. No. 97-116, 95 Stat. 161. Note that this amendment was passed after the Refugee Act of 1980.

“for failure to satisfy the criteria clearly established by the legislative history of the 1957 law.” H.R. Rep. No. 97-264 (1981). As noted in one report:

The Committee recalls that the purpose of this section, as reflected in the legislative history, is to permit the adjustment of immigration status to a limited number (50) of foreign diplomats who *for compelling reasons may find it impossible to return to the countries which accredited them to the United States* (Report No. 1199, 1st Session—85th Congress).

H.R. Rep. No. 94-1659 (1976) (emphasis added).

In keeping with the legislative history, we may consider only limited factors when determining whether a Section 13 applicant is unable to return to the country of accreditation. As this history shows, the phrase “unable to return” that was added to the statute in 1981 is linked to the purpose of the original 1957 legislation, which was to “provide for a limited class of aliens . . . who are left homeless and stateless” due to fundamental political upheavals. 103 Cong. Rec. 14,660 (1957). By including the phrase “are left homeless and stateless,” Congress signaled its intention that the significant political change (e.g., Communist and other uprisings, aggressions, or invasion) in the country of accreditation would occur while an applicant is in valid A or G nonimmigrant status. Similarly, in requiring an applicant to have “failed to maintain [A or G] status,” Congress believed the significant political change would necessarily result in an applicant’s inability to continue representing his or her country in an official capacity. 8 U.S.C. § 1255b(a).

Thus, there is a causal relationship between the significant political change and the impossibility of return resulting from an applicant’s official duties while in A or G nonimmigrant status. This relationship is rooted in Section 13’s intended purpose, which is to provide LPR status to individuals who performed diplomatic or semi-diplomatic duties for their countries of accreditation and would have been at risk of harm upon return to those countries because the governments they represented while in the United States underwent fundamental political change during the applicant’s diplomatic service.

We recognize that a narrow interpretation of the term “compelling reasons” will exclude those applicants who desire to remain in the United States to seek and pursue career goals, or educational and employment opportunities for themselves or their family members that may not be available in the countries of accreditation. However, such an interpretation is correct in light of the classification’s legislative history, as Section 13 was not created as an adjustment of status of category for all former A or G nonimmigrants who may face difficulties or disruptions upon returning to their countries of accreditation.⁵

Here, the Applicant has not established that a fundamental political change occurred in Pakistan between July 1998 and July 2001, the timeframe that he represented the Pakistani government in the United States. There is no evidence of an uprising, aggression, or invasion in Pakistan while he was in A-2 nonimmigrant status that has left him homeless and stateless.

⁵ We note that an applicant’s ineligibility for Section 13 classification does not preclude them from seeking valid immigration status through other means (e.g., asylum).

We acknowledge the Applicant's claims that he refused bribes by numerous officials while working at the Pakistani consulate, he was subjected to an inquiry related to visas he issued, and he fears returning to Pakistan based on these issues. However, the Applicant's claims are not related to a fundamental political change in Pakistan while he was employed at the Pakistani consulate.

We acknowledge evidence in the record indicating that the Applicant and his children may experience hardship upon return to Pakistan due to difficult country conditions. However, as stated above, the Applicant must establish that there was a fundamental political change in Pakistan, and that his inability to return there as a result of that fundamental political change relates to the diplomatic or semi-diplomatic duties he performed on behalf of the government that accredited him. The Applicant has not demonstrated that he meets those requirements, because he has not shown that while he held A-2 nonimmigrant status, a fundamental political change occurred in Pakistan which left him in effect homeless or stateless because of his prior government employment. Consequently, the Applicant has not established, by a preponderance of the evidence, the requisite compelling reasons that prevent his return to Pakistan, and he is ineligible for adjustment of status under Section 13.

ORDER: The appeal is dismissed.