



Questions and Answers

April 7, 2009

Rule Changes How USCIS Handles Certain Affirmative Asylum Applications *Regulatory Change Saves Resources for Government and Applicant*

Introduction

On April 6, 2009, U.S. Citizenship and Immigration Services (USCIS) published a final rule in the [Federal Register](#) that changes the requirement for USCIS to forward affirmative asylum cases to the Department of State (DOS). Until this regulatory change, USCIS was required to forward to the DOS a copy of each completed asylum application it receives. With this rule change, USCIS is permitted to send affirmative asylum applications to DOS in those cases where USCIS believes DOS may have country conditions information relevant to the case that is not already in USCIS' possession.

Background

In Fiscal Year 2007, USCIS received 25,680 affirmative asylum applications and forwarded a copy of each to DOS. DOS and USCIS have determined that the current forwarding process is not an efficient method for the agencies to identify and review asylum applications. This change will increase the efficiency of DOS' review of asylum applications.

Questions and Answers

Q. What does this rule change?

A. USCIS is no longer required to forward all affirmative asylum applications to the DOS' Bureau of Democracy, Human Rights and Labor as a result of this regulatory change. Instead, USCIS' Asylum Division may send affirmative asylum applications to DOS when USCIS believes DOS may have relevant information or comments on country conditions relevant to the case.

Q. When did this rule become effective?

A. This final rule is effective as of the date of publication in the [Federal Register](#), April 6, 2009.

Q. How does this affect my asylum application?

A. The rule only addresses how files are handled between USCIS and DOS. It does not affect the grounds for consideration of an asylum applicant's eligibility for asylum, nor does it delay or otherwise change the timeframe for interview and adjudication. USCIS will still consider information from DOS such as the annual Country Reports on Human Rights Practices and annual International Religious Freedom Reports, in addition to other relevant country conditions information when deciding asylum cases.

Q. Why did USCIS make this regulatory change?

A. USCIS and DOS mutually decided to change the regulation in order to increase efficiency in the process by which the agencies identify cases for DOS review. This regulatory change permits DOS to review and provide information on those cases for which USCIS believes case-specific DOS information or comment is most needed.

Q. Was the Department of State consulted before making this change?

A. Yes. The regulatory change was made in collaboration with DOS' Bureau of Democracy, Human Rights and Labor.

Q. Do I still need to mail three copies (one original application plus two photocopies) of my Form I-589, *Application for Asylum and Withholding of Removal*, to USCIS' Service Center?

A. Yes. The I-589 instructions still require applicants to submit one original and two copies of the I-589. The additional copies are used for particular aspects of the asylum process including possible forwarding to DOS. Meanwhile, your I-589 application will be rejected if only two copies (one original plus one photocopy) are included in the filing package.

Q. What cases will the Asylum Division continue to forward to the Department of State?

A. USCIS will send affirmative asylum applications to DOS where USCIS believes DOS has information specific to the applicant or the applicant's situation. Generally, the request to DOS would be for information that is not otherwise available or for confirmation of publicly available information, where such validation would be helpful to the adjudication.

Q. What information can DOS provide to USCIS regarding the asylum applications?

A. With respect to any asylum application, DOS may provide, at its discretion, detailed country conditions information relevant to eligibility for asylum or withholding of removal; an assessment of the accuracy of the applicant's assertions about country conditions in his or her country of nationality or habitual residence and his or her particular situation; information about whether persons who are similarly situated to the applicant are persecuted or tortured in the applicant's country of nationality or habitual residence and the frequency of such persecution or torture; or such other information as DOS deems relevant.

Q. Does this rule also affect the procedures used by the Immigration Courts at the Department of Justice, Executive Office for Immigration Review (EOIR)?

A. No. This rule does not affect the procedures and processes between the immigration courts and DOS.