U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: OCT 27 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Marie Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences.

The petitioner initially submitted several exhibits and counsel's brief placing the exhibits in context. Specifically, counsel asserted that the petitioner met six criteria. On January 2, 2003, the director issued a request for additional documentation. Despite the submission of several exhibits, the director's request did not identify any deficiencies in the evidence and did not request specific evidence to clarify the evidence already submitted. For example, the director did not request evidence of the significance of the petitioner's award or the fellowship requirements for the World Academy of Art and Science, in which the petitioner is one of 80 fellows. Rather, the director simply advised the petitioner of the regulatory criteria.

The director determined the petitioner had not established that he qualifies as an alien of extraordinary ability in his field of endeavor. Specifically, the director correctly noted the lack of evidence regarding the significance of the petitioner's award, and dismissed the petitioner's numerous articles and textbooks as inherent to the field and the letters as being from friends and former students. The director did not discuss the evidence submitted to meet several of the other criteria claimed.

On appeal, the petitioner submits evidence regarding the significance of the award he received from the Romanian government, the only deficiency identified by the director.

Section 203(b) of the Act states, in pertinent part, that:

> (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

An alien, or any person on behalf of the alien, may file for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in science, the arts, education, business, or athletics. Neither an offer of employment nor a labor certification is required for this classification.

The specific requirements for supporting documents to establish that an alien has achieved sustained national or international acclaim are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be discussed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a computer scientist. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). On appeal, counsel asserts that the petitioner's Romanian award should be considered "per se" evidence of eligibility. Regardless of the award's prestige, it is a national, not an international award and, thus, cannot establish the petitioner's eligibility alone.

Barring the alien's receipt of such an international award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. Review of the evidence of record establishes that the petitioner has in fact met three of the necessary criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

Initially, the petitioner submitted a certification signed by Stefan Iancu, Scientific Secretary of the Romanian Academy asserting that the Department of Science and Information had "decided to propose" that the petitioner receive the Grigore Moisil Prize for 2000. The certification is dated August 28, 2002, one month before the petition was filed. The petitioner also submitted evidence that he received an honorary degree from the University of Oradea in Romania in 1998. As stated above, the director's request for additional evidence did not identify any deficiencies with this evidence or request clarification of the significance of the Romanian Academy award. The director ultimately determined that the record lacked evidence of the significance of the Romanian award. On appeal, the petitioner submits a letter dated September 23, 2003 congratulating the petitioner on winning the 2000 award, described as "the most important awards for science and culture granted in Romania for scientific contributions."

The record still does not establish that the petitioner had actually received the award at the time of filing or even that it had been finally determined that he would receive this award. As such, we cannot consider the award to meet this criterion. Nevertheless, we mention the award as it is based on work completed in 2000. Thus, we can consider this evidence as part of the cumulative evidence of the petitioner's scholarly articles in his field, as will be discussed below.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submitted evidence that he was an associate editor for the *Romanian Journal of Information Science and Technology* and a member of the editorial board of the *Revue Roumain des Sciences Techniques*.

The petitioner is also listed as the editor for several textbooks. The director did not consider this evidence. We find that these editorial positions are beyond the typical peer review inherent to the field. As such, the petitioner meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner is the author of 17 books, 68 technical papers, and 28 interdisciplinary papers. The director dismissed this entire publication history with the observation that publication is inherent to the field. We concur that publication in a field where publication is common and expected is insufficient without further analysis of the impact of those publications. The director, however, did not consider whether the petitioner's individual publication history was indicative of or consistent with national or international acclaim.

The petitioner established that his textbooks are used at universities in Romania. The record also contains some limited evidence of citations. Most significantly, the petitioner's 2000 textbook was recognized with a prominent Romanian award. Thus, we find that the petitioner meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The record suggests that the petitioner served as Romania's Minister of Education and Science from 1990 to 1991. We cannot conclude that an entry in *Who's Who*, which relies on information provided by the people whose biographies it publishes, is satisfactory evidence of the petitioner's government position.

Nevertheless, the petitioner submitted a letter from [redacted] President of the Black Sea University Foundation (BSUF), a non-governmental organization (NGO) with consultative status with the United Nations (U.N.). The letter asserts that the petitioner is a founding member of the foundation and was elected Vice President in 1996. The letter continues:

> Since December 2001, [the petitioner] is a member of the new Executive Board of the Black Sea University Foundation. He has been directly involved in the creation of the Laboratory for Information Technology in Education (LITE) within the BSUF, as well as in researches [sic] concerning the study of educational and technical prospective (his study is published in "Romania 2020") and knowledge management (on the subject of scientific knowledge classification – with a paper to the Romanian Academy, 2001).
>
> In December 2002, on the occasion of BSUF's 10th Anniversary Year, [the petitioner] will be awarded the Honorary Diploma for Outstanding Merits.

We find that the petitioner's service as a founder, Vice President and a member of the Executive Board of this foundation constitutes leading and critical roles for BSUF. As a national NGO with consultation status with the U.N.,[1] we find that it has a sufficiently distinguished reputation. As such, the petitioner meets this criterion.

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[1] We were able to confirm this information at BSUF's Internet site, listed on the letter provided. In addition, the website reveals that BSUF collaborates with several distinguished universities, including a few top universities in the United States. A "Google" search of the foundation's full name results in over 700 sites that mention BSUF.

As we have concluded that the petitioner meets the above three criteria, we need not address the less persuasive assertions in the record.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized in h field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. The petitioner has established that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefits sought under section 203(b)(1)(A) of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.