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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



A₃

DATE: **SEP 25 2012**

OFFICE: WASHINGTON DISTRICT

FILE:

IN RE: Applicant:

APPLICATION: Application for Status as Permanent Resident Pursuant to Section 13 of the Act of September 11, 1957, 8 U.S.C. § 1255b.

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

Section 13 requires that an applicant for adjustment of status under this provision have “compelling reasons demonstrating that the alien is *unable* to return to the country represented by the government which accredited the” applicant. (Emphasis added). The term “compelling” must be read in conjunction with the term “unable” to correctly interpret the meaning of the words in context. Thus, reasons that are compelling are those that render the applicant unable to return, rather than those that merely make return undesirable or not preferred from the applicant’s perspective. The “compelling reasons” standard is not a merely subjective standard. Aliens seeking adjustment of status under Section 13 generally assert the subjective belief that their reasons for remaining in the United States are compelling, or that it is interesting or attractive to them to remain in the United States rather than return to their respective countries. What Section 13 requires, however, is that the reasons provided by the applicant demonstrate compellingly that the applicant is unable to return to the country represented by the government which accredited the applicant. Even where the meaning of a statutory provision appears to be clear from the plain language of the statute, it is appropriate to look to the legislative history to determine “whether there is ‘clearly expressed legislative intention’ contrary to that language, which would require [questioning] the strong presumption that Congress expresses its intent through the language it chooses.” *I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 433, fn. 12 (1987).

The legislative history for Section 13 reveals that the provision was intended to provide adjustment of status for a “limited class of . . . worthy persons . . . left homeless and stateless” as a consequence of “Communist and other uprisings, aggression, or invasion” that have “in some cases . . . wiped out” their governments. Statement of Senator John F. Kennedy, *Analysis of Bill to Amend the Immigration Nationality Act*, 85th Cong., 103 Cong. Rec. 14660 (August 14, 1957). The phrase “compelling reasons” was added to Section 13 in 1981 after Congress “considered 74 such cases and rejected all but 4 of them for failure to satisfy the criteria clearly established by the legislative history of the 1957 law.” H. R. Rep. 97-264 at 33 (October 2, 1981). The legislative history supports the plain meaning of the language in Section 13 that those eligible for adjustment of status under Section 13 are those diplomats that have been, in essence, rendered stateless or homeless by political upheaval, hostilities, etc., and are thus *unable* to return to and live in their respective countries.

The AAO has considered evidence of the compelling reasons the applicant claims prevents her and her family members from presently returning to Cameroon, the country represented by the government that accredited them. However, the record lacks evidence to demonstrate that the applicant is unable to return to Cameroon for compelling reasons. There is no evidence that the government of Cameroon opposes the applicant’s return to the country, or will seek to harm her for any particular reason articulated in the record. In a sworn statement dated February 9, 2011, the applicant stated that two of her children suffer from autism. The record, however, does not include documentation to establish the children’s medical condition and why they cannot return to Cameroon. The applicant does not provide any further details. The AAO acknowledges that the “compelling reasons” standard is a different standard than the persecution standards applicable in asylum or withholding of removal adjudications. Nevertheless, a reasonable fear of persecution in the country represented by the government that accredited an applicant for adjustment of status under Section 13 is, in most cases, strong evidence that compelling reasons prevent his or her return there.

There is no evidence of record to establish that the applicant and her family will be affected by political conditions in Cameroon. It is noted that by letter, dated September 7, 2011, the applicant's spouse, who served in the diplomatic position, indicates that he is employed with the [REDACTED]

[REDACTED] The evidence does not show that the applicant has been rendered essentially "homeless" or "stateless" as a consequence of these conditions. Therefore, since the applicant has failed to demonstrate that she is unable to return to Cameroon because of compelling reasons, and therefore is not eligible for adjustment of status under Section 13, it is not necessary to address whether her adjustment of status would be in the national interest.

For the reasons discussed above, the AAO finds that the applicant is not eligible for adjustment under Section 13. She has failed to establish that there are compelling reasons preventing her return to Cameroon. Pursuant to section 291 of the Act, 8 U.S.C. 1361, the burden of proof is upon the applicant to establish that she is eligible for adjustment of status. The applicant has failed to meet that burden. Accordingly, the decision of the field office director will be affirmed.

ORDER: The decision of the field office director is affirmed. The appeal is dismissed.