



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

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

MATTER OF V-P-

DATE: APR. 22, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a singer, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner has received a major, internationally recognized award or met the requirements of at least three of the ten evidentiary criteria.

On appeal, the Petitioner asserts that the Director did not give proper consideration to the submitted evidence, and that the translation certificates it submitted were compliant with the regulations.

Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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 into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the “truth is to be determined not by the quantity of evidence alone but by its quality” and that U.S. Citizenship and Immigration Services (USCIS) examines “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true”). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor.

In addition, the regulation at 8 C.F.R. § 103.5(b)(3) states the following regarding the translation of foreign-language documents:

(3) *Translations.* Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English.

## II. ANALYSIS

The Director found that the Petitioner did not meet any of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). On appeal, the Petitioner asserts that she meets eight of the ten evidentiary criteria. After reviewing all of the evidence in the record, we find the she has not met the requisite three criteria, which will be explained in detail below.

The Director's decision primarily focused on the lack of proper certifications which accompanied the English translations of much of the evidence in the record. The Petitioner's original submission included several documents submitted in support of several of the evidentiary criteria, such as letters, published articles and related information, followed by translations which include a seal which states “Official Translator” as well as a signature. In addition, an attestation from an Albanian notary followed some of these translations and contained the following statement:

Today, on 03 August 2016 I, the undersigned notary [notary's name] with the premises in [redacted] declare that the translation of the attached document from Albanian into

English from the English translator [translator's name] is the best of my knowledge and belief a true and a faithful rendering of the original language, and I the Notary certify it pursuant the law.

In his request for evidence (RFE) to the Petitioner, the Director explicitly stated that the translations were not compliant with the regulation at 8 C.F.R. § 103.5(b)(3), since they do not include a certification from the translator that the translations are “complete and accurate” and that he or she “is competent to translate from the foreign language into English.” The Petitioner’s response to the Director’s RFE included the same translations, but with the notary’s seal removed or hidden, accompanied by a certification from her representative in which he claims to be the author of the translations. Because neither the initially submitted certifications nor those submitted in response to the RFE were completed by the translator of the documents in Albanian, these translations are not compliant with the regulatory requirements. However, we will review the content of these translations and note any further evidentiary deficiencies in our analysis below.

Other English translations, primarily of reference letters, include a signed stamp with the following statement:

The undersigned being duly conversant in both English and Albanian languages hereby certify that the above is a direct translation of the statement.

These certifications are substantially compliant with the requirements at 8 C.F.R. § 103.5(b)(3), and will therefore be considered as evidence in support of the relevant evidentiary criteria below.

*Documentation of the individual’s receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i)*

The Petitioner submitted evidence relating to her receipt of the following awards:

- First Prize, [redacted] 2011
- Best Female Interpretation, [redacted] 2005 4<sup>th</sup> Edition
- Summer Hits 2016, [redacted]
- Public Prize, [redacted]
- Honor of the Union, [redacted] 2016
- Certificate of Gratitude, [redacted] 2014, [redacted]
- Certificate of Gratitude, [redacted] 2016, [redacted]

Regarding the First Prize at the [redacted] we note that the evidence consists of a printed certificate with the Petitioner’s name handwritten in [redacted] below which is a blank line after the words “For the song.” These deficiencies in the evidence decrease its probative value. In

addition, the website information which accompanies this certificate relates to a different music festival, the [REDACTED] which takes place in [REDACTED] Bulgaria, not [REDACTED] Macedonia as the certificate indicates. Other evidence relating to this evidence includes an interview of the Petitioner posted on a blog, <http://albavipnews.blogspot.com>, in which she mentions her participation in the [REDACTED] in 2011 but does not mention an award, and a biography and a gossip news article, neither of which list an author. Given the incompleteness of the award certificate and the lack of verifiable supporting documentation, this evidence does not establish that the Petitioner received the prize or award claimed.

Turning to the second listed certificate, the term “best female interpretation” does not clearly indicate whether this was a top prize at the festival, nor does the supporting evidence submitted with the certificate clarify this.<sup>1</sup> An article posted on the same blog mentioned above discusses the 2013 version of the [REDACTED] television show, but mentions only the top prize received in that 12<sup>th</sup> edition, and thus does not serve to show that the prize received by the Petitioner was nationally or internationally recognized.

The next two certificates, for “Summer Hits 2016” and the [REDACTED] [REDACTED], also do not indicate whether they were given as top prizes in competitions, as the record does not include evidence of the criteria for these awards. In addition, the YouTube and Facebook screenprints relating to the Summer Hits 2016 certificate do not provide information about the award sufficient to establish that they are nationally or internationally recognized.

The last three certificates listed above indicate that they were given to the Petitioner for her participation in several festivals and other events, not only as a singer but also as a presenter and coordinator. This evidence does not establish that they were awarded to the Petitioner for excellence as a singer.

Upon review, while the evidence demonstrates that the Petitioner received some of the listed awards, this evidence does not show that these awards are nationally or internationally recognized. Therefore the Petitioner has not established that she meets this criterion.

*Documentation of the individual’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii)*

The Petitioner submitted evidence that she is a member of [REDACTED] described as an artistic cultural association. The evidence includes articles which describe the activities of the association, as well as a letter from the head of [REDACTED] in which she states that the Petitioner “has been invited to participate in international and national festivals” because of her “extraordinary contributions.” However, [REDACTED] does not provide details about the association’s

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<sup>1</sup> We further note that one of the articles submitted in support of this certificate, from a blog named “ALBA VIP Thashetheme,” includes an English translation preceded by the phrase “translated by google.” As indicated in the Director’s decision, such translations, without certification from a translator, do not meet the requirements at 8 C.F.R. § 103.2(b)(3).

membership requirements, nor does the evidence include its bylaws or other governing rules which might state its membership requirements, or how and by whom applicants are judged.

Also submitted was a letter from [REDACTED] General Secretary of the [REDACTED] [REDACTED] who confirms that the Petitioner joined this group in 2017. [REDACTED] does not describe any membership requirements for [REDACTED] and an article in the record from the *New York Daily News* states that where it used to be a political organization, it is now “more of a social organization.” The Petitioner has therefore not established that [REDACTED] is an association for singers or others in the music industry, or that it requires outstanding achievements of its members. As such, we agree with the Director that the Petitioner has not established that she meets this criterion.

*Published material about the individual in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii)*

Several articles were submitted from Albanian newspapers and magazines, including *Telegraf*, *Vajza e Dites*, and *Femra Moderne*. In addition to the deficiencies in the translation certifications noted above, we note that some of these articles are incomplete, or do not contain the required date, author and/or publication information. For example, an article claimed to have been published in *Telegraf* on [REDACTED] 2008 is missing the date and author of the material, and the original is not complete. In addition, some of the articles which are about the Petitioner do not relate to her work in the field but to personal matters such as her marital status, physical appearance and food preferences. An example of this is the article published in the [REDACTED] 2006 edition of *Femra Moderne*, which consists of 60 short questions and answers focusing entirely on the Petitioner’s personal life versus her career as a singer.

In addition, the Petitioner has not established that those articles in the record which are, at least in part, about her and her work as a singer were published in professional or major trade publications or other major media. The Petitioner submitted a letter from Avni Elezi, administrator of *Vajza e Dites* magazine, which states that it has a circulation of 2000, has been publishing since 2004, and is distributed throughout Albania. However, it did not provide comparative data to establish that when compared to the circulation of other publications in Albania, this magazine can be considered to qualify as major media. Regarding the newspaper *Telegraf*, the Petitioner submitted a copy of its webpage which indicates that it is available for sale throughout Albania, as well as a printout titled “telegraf.al Traffic Statistics” which indicates that the website was ranked 610<sup>th</sup> in terms of traffic among websites frequented by Albanians. However, the record does not include information about the websites of other Albanian publications to which this figure could be compared to determine if it qualifies as “major media.” Also, the record includes a copy of the Facebook page for *Femra Moderne* which indicates that it has more than 25,000 followers. As with the evidence regarding the other publications, this raw number is insufficient to demonstrate, by itself, that this magazine qualifies as “major media” as required by the plain language of this criterion. Therefore, the evidence does not establish that the Petitioner meets this criterion.

*Evidence of the individual's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv)

The Petitioner submitted a letter from the President and Producer of the [REDACTED] event, “where compete the most beautiful girls of the north Albania,” who indicate that she was selected as chairwoman of the jury for the third edition of the event. The letter further states that the Petitioner was selected “so she can properly evaluate the most beautiful northern girl.” This letter does not indicate that the contestants who were judged by the Petitioner and the rest of the jury were singers or worked in an allied field of specialization, or that they were judged on their work as singers. As such, we find that the evidence does not establish that the Petitioner meets this criterion.

*Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field. For example, a Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance.

The Petitioner does not identify a specific original artistic contribution that she has made, but instead refers to evidence of her music contract and letters from others in the music industry. She refers to evidence of a contract with a company called [REDACTED] which consists of a letter from the co-owner of this company which states that she has “a management contract with our firm, for a unspecified time frame, valued at: 500,000 (50,000 new money),”<sup>2</sup> but does not explain why her representation by a management company should be considered to be a contribution to the music industry. In addition, the reference letters submitted in support of this criterion discuss various aspects of the Petitioner’s singing career, but do not provide specific information regarding her original contributions to the field of music or the music industry. [REDACTED] of the 13<sup>th</sup> district of [REDACTED] New York, states that the Petitioner has performed in his community at an international music festival, and opines that she has “made outstanding contributions to the field of music,” but does not elaborate on what those contributions were. Similarly, [REDACTED] an Albanian singer and songwriter, describes how he met and collaborated with the Petitioner, and describes her skills and talent as a performer, but does not identify a contribution she has made to the field. Also, [REDACTED] a composer who has worked with the Petitioner, describes their past and continuing collaboration and states that she has “a good image for the public” and “brings new trends and positivity.” While this evidence serves to verify the Petitioner’s work as a singer, it does not establish that she has made original contributions that have influenced other singers or otherwise been of major significance to the field. Therefore, it does not demonstrate that she meets the requirements of this criterion.

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<sup>2</sup> We note that in addition to the deficiencies with all of the English translations noted earlier, the translation of the letter from [REDACTED] adds text which is not in the original document. It cannot therefore be accepted as a complete and accurate translation from Albanian into English.

*Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)*

In support of her assertion that she has played a critical role for establishments in Albania, the Petitioner refers to letters which verify her work with [REDACTED] and [REDACTED] television. [REDACTED] Vice Director of [REDACTED] states that she is a “regular collaborator” and “is a participant” in many programs, including [REDACTED] and [REDACTED]. However, this letter does not specify the Petitioner’s role in these programs, nor does it indicate that her participation was critical to any success they may have enjoyed. Similarly, a letter from [REDACTED] verifies the Petitioner’s title and salary at [REDACTED], but does not provide details about her employment or indicate that she played a critical role for the establishment as a whole. Accordingly, this evidence does not establish that the Petitioner meets this criterion.

*Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix)*

The record includes the following evidence regarding the Petitioner’s earnings:

- Letter from [REDACTED] of [REDACTED] stating that the Petitioner works as a musical producer from 2001 to 2016, earning 1,000 euros per month
- Letter from [REDACTED] of [REDACTED] stating that the Petitioner “has a management contract with our firm, for a unspecified time frame, valued at: 500,000 (50,000 new money.)”
- Webpage article that mentions that some producers are singers.
- Webpage article from [www.paylab.com](http://www.paylab.com) indicating that the average salary in Albania is 53,950 ALL. The Petitioner highlights an entry under “Arts & Culture” which indicates a salary of 913,232 ALL.
- Article dated April 5, 2015 from *Independent Balkan News Agency* stating that the average monthly salary in Albania is 45,539 ALL, or 330 euros.

We first note that despite the Director’s specific request in his RFE, the Petitioner did not submit verifiable evidence in support of these letters, such as Forms W-2 or foreign tax documentation of her salary. Although the Petitioner claimed that “there are no W-2 or taxes in Albania,” she did not submit evidence in support of this statement, nor did she submit other evidence of her salary, such as copies of pay receipts or bank statements. The submitted evidence is insufficient to establish the amount of the Petitioner’s salary. In addition, we note that the evidence regarding salaries in Albania does not provide data regarding the salaries of other singers in Albania, and thus does not provide a basis of comparison which would allow us to determine that the Petitioner’s salary is high. Therefore, the Petitioner has not established that she meets this criterion.

*Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales. 8 C.F.R. § 204.5(h)(3)(x)*

In support of her qualification under this criterion, the Petitioner once again refers to the letter from [REDACTED] of [REDACTED] which as previously mentioned has not been properly translated. Also, we note that the value of a management contract, even if supported by verifiable evidence, is not one of the types of evidence specified in the plain language of the criterion.

The Petitioner also submitted evidence in the form of YouTube screenshots of her music videos, showing the number of times they had been viewed. We will initially note that the Petitioner's claim that several of the videos have "over 2.4 million subscribers" is not accurate, as that number relates to the YouTube channel [REDACTED]. There is no indication in the record that this number of subscribers can be attributed solely to the Petitioner. More importantly, the Petitioner has not established that the number of views of her videos is evidence of commercial success similar to box office receipts, or compact disk or video sales, since this evidence does not demonstrate the monetary value of these views or otherwise set a basis for determining commercial success. Similarly, while the Petitioner submitted evidence that her music is available on digital streaming services such as Spotify and Soundcloud, and that some of her songs have been streamed or downloaded thousands of times over the course of several years, this evidence is not sufficient to demonstrate that she has achieved commercial success. Accordingly, it does not establish that the Petitioner meets this criterion.

### III. CONCLUSION

The evidence does not establish that the Petitioner received a major, internationally recognized award or meets three of the ten evidentiary criteria. As a result, we need not provide the type of final merits analysis determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in its entirety, and conclude that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. For these reasons, the Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.

Cite as *Matter of V-P-*, ID# 2794783 (AAO Apr. 22, 2019)