



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

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

In Re: 25239849

Date: JUNE 9, 2023

Appeal of National Benefits Center Decision

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

The Applicant is a citizen of Pakistan who seeks to adjust status to that of a lawful permanent resident under section 13 of the 1957 Immigration Act (Section 13). 8 U.S.C. § 1255b. Section 13 allows a noncitizen who was previously an A-1, A-2, G-1, or G-2 nonimmigrant to adjust status if certain criteria are met.¹

The Director of the National Benefits Center denied the Form I-485, concluding that the Applicant did not establish, as required that there were compelling reasons preventing his return to Pakistan. The matter is now before us on appeal.²

On appeal, the Applicant submits a brief and asserts that he has presented multiple compelling reasons for his inability to return to Pakistan, and the Director's decision was therefore in error.

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 foreign nationals 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;³ (2) performance of diplomatic or semi-diplomatic duties by the principal on behalf of the accrediting

¹ Pub. L. No. 85-316, 71 Stat. 642, *amended by* Pub. L. No. 97-116, 95 Stat. 161 (1981).

² The Director denied the Applicant's previous request for adjustment of status under Section 13, concluding that the Applicant did not establish, as required that he performed diplomatic or semi-diplomatic duties while employed in the United States. We dismissed the Applicant's appeal of that decision on the same basis in 2018. Following the denial of the instant Form I-485, the Applicant filed this appeal and another Form I-485 seeking adjustment of status under Section 13, which is currently pending.

³ 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).

country; and (3) inability, because of compelling reasons, to return to the country that accredited the foreign national. 8 U.S.C. § 1255b; 8 C.F.R. § 245.3.⁴

II. ANALYSIS

The issue on appeal is whether the Applicant has established compelling reasons that render him unable to return to Pakistan. Upon review of the entire record, including the Applicant's statements on appeal, we conclude that he has not.

The record reflects that the Applicant was last admitted to the United States in 2005 as an A-2 nonimmigrant to work at a Pakistani Consulate [redacted] to the Pakistani Consul General. His A-2 status was terminated in 2007. During an interview with U.S. Citizenship and Immigration Services (USCIS) in connection with the instant adjustment of status request, the Applicant testified that as part of his duties at the Consulate he helped deport criminal and illegal immigrants to Pakistan, and feared that those individuals might come after him and his family if he returned there. He further stated that he did not have any property or family ties in Pakistan and that he previously had disagreements with his superiors, which resulted in negative reports about him being sent to the Consul General and the Ministry of Foreign Affairs. The Applicant testified that because Pakistan does not have a strong rule of law he was afraid he and his family members might be kidnapped for ransom and subjected to physical violence, and the police would not be able to protect them. He stated he did not know whether his previous government employment might affect his "ability to get housing" because he had not been to Pakistan since 2003, but claimed he would not be able to obtain employment because "there are no medical IT positions in Pakistan."

The Director determined that the reasons for the Applicant's claimed inability to return to Pakistan were not "compelling reasons" in the context of adjustment of status under Section 13, as he did not demonstrate that he or any of his family members would be targeted or at risk of harm by the Pakistani government because of his past employment at the Consulate, political activities, or other related reasons. The Director explained, referencing the legislative history of Section 13, that compelling reasons do not encompass general inconveniences and hardships associated with relocating, the risks or dangers experienced by the population as a whole, or a desire to remain in the United States.

On appeal, the Applicant avers that the Director misinterpreted the law in concluding that Section 13 was intended to provide adjustment to high-ranking government officials and their immediate family members who were left stateless or homeless as a result of major political changes in their home countries, and did not properly evaluate the evidence in his case. He contends, without citing any legal authority, that it is more likely Congress had no intention of limiting relief only to individuals falling within such narrow parameters, and that the Section 13 adjustment provision was enacted to ameliorate the situations of former diplomats and other government workers whose "compelling reasons" for an inability to return to their countries could arise in novel contexts over time. He further states that "plain language" should control and the word "compelling" therefore should be interpreted

⁴ If the first three eligibility requirements are met, an applicant must also establish that: compelling reasons demonstrate 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.

simply as “demanding attention” pursuant to its dictionary definition. The Applicant claims that he has presented multiple “compelling” reasons for his inability to return to Pakistan, including fear of reprisals and attacks at the hands of criminals whose deportations he facilitated as a former diplomat, loss of economic opportunities due to his disagreements with senior officials within the Ministry of Foreign Affairs, and risk of harm from the Pakistani government, which is in the throes of yet another upheaval and regime change as of April 2022. He asserts that he is therefore eligible for adjustment of status under Section 13. We disagree.

A. The Meaning of the Phrase “Compelling Reasons”

“Our first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). We are required to apply the plain statutory language avoiding the creation of ambiguity where none exists. *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) (“If the statute is clear and unambiguous ‘that is the end of the matter, for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.’” (citations omitted)).

As stated, Section 13 applicant must show, in part:

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 for us to consider. We also recognize that there is no binding precedent that would settle this question. *See Jabateh v. Lynch*, 845 F.3d 332, 336 (7th Cir. 2017) (recognizing that the Board of Immigration Appeals does not have jurisdiction over Section 13 denials). Accordingly, it is instructive for us 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)).

B. Section 13 Legislative History Instructs Our Interpretation

When originally introduced in Congress in 1957, the purpose of Section 13 was to:

[P]rovide for a limited class of aliens. . . . The persons involved are those high ranking Government officials and their immediate families who have come here as diplomatic representatives, or representatives of their countries to the United Nations. *Because of Communist and other uprisings, aggression, or invasion their governments have in some cases been wiped out. These worthy persons are left homeless and stateless.*

103 Cong. Rec. 14,660 (1957) (emphasis added). The enacted legislation required a noncitizen to have failed to maintain their A or G nonimmigrant status; to demonstrate that they are a person of

good moral character and admissible to the United States; and that adjusting the noncitizen's status would not be contrary to the national welfare, safety, or security of the United States.⁵

The original 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 and that the adjustment of status would be in the national interest. Rather, the compelling reasons language was added by the Immigration and Nationality Act Amendments of 1981.⁶ 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 “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).

Accordingly, upon viewing the legislative history and the statutory requirement as a whole, we do not conclude that the term “compelling reasons” is ambiguous. It is an elementary rule of construction that we must “give effect, if possible, to every clause and word of a statute.” *Advocate Health Care Network v. Stapleton*, 137 S. Ct. 1652, 1659, 198 L. Ed. 2d 96 (2017) (quoting *Williams v. Taylor*, 529 U.S. 362, 404 (2000) (internal citations omitted)). Here, we must construe the term “compelling reasons” as modifying the necessary condition that the applicant is “unable to return” to the country he or she represented and that the adjustment of status would be in the national interest. In other words, the term “compelling reasons” is restrictive and denotes a conclusion to be drawn by evaluating the severity of the reason the applicant is unable to return.⁷

B. The Term “Compelling Reasons” Has a Limited Scope

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

⁵ 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).

⁶ Pub. L. No. 97-116, 95 Stat. 161. Note that this amendment was passed after the Refugee Act of 1980.

⁷ *Cf. Lal v. I.N.S.*, 255 F.3d 998, 1005 (9th Cir.), opinion amended on reh’g, 268 F.3d 1148 (9th Cir. 2001) (examining the meaning of “compelling reasons . . . arising from the severity of past persecution” in the context of humanitarian asylum claims).

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 their 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 lawful permanent resident 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.

An applicant bears the burden of demonstrating not only the fundamental political change that occurred, but also the impossibility of return resulting from the applicant’s official duties while in A or G nonimmigrant status. *See* section 291 of the Act (providing that the applicant bears the burden of demonstrating eligibility for the immigrant or nonimmigrant classification that he or she seeks).

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 medical treatments, 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. Section 13 was not created as an adjustment of status of category for all former A or G nonimmigrants who may face inconveniences and hardships associated with relocating, or where there may be risks and dangers experienced by the population as a whole in their countries of accreditation.⁸

C. The Applicant Has Not Established the Existence of Compelling Reasons

The Applicant does not claim or submit evidence that while he was employed at the Pakistani Consulate a fundamental political change in Pakistan occurred that prevents him from returning there for reasons related to that political change. We recognize that the Applicant has been residing in the United States for the past 20 years, that he no longer has property or close family ties in Pakistan, and that he might not be able to continue his employment there in the “medical IT position.” We also acknowledge the Applicant’s claim that he fears retaliation by the individuals he helped remove from the United States as part of his consular duties, and that the situation in Pakistan is unstable. Nevertheless we must interpret the term “compelling reasons,” consistently with congressional intent, as tied to political upheavals that render a former diplomat homeless or stateless, and not to hardships

⁸ We note that an applicant’s ineligibility for Section 13 classification does not preclude them from seeking immigration status through other means (e.g., permanent residency through a family- or employment-based visa petition).

related to general conditions or safety in the country of accreditation, or better employment opportunities in the United States.

As discussed, the Applicant has not demonstrated that such reasons exist in his case, because he has not shown that there has been a fundamental political change in Pakistan since he was granted A-2 nonimmigrant status that renders him unable to return there because of his prior government service.

Because the Applicant is ineligible to adjust status under Section 13 on that basis alone, we need not address at this time whether he performed diplomatic or semi-diplomatic duties in the course of his employment in the United States, whether he has shown that a grant of his request adjustment of status under Section 13 is in the national interest, and if he merits such adjustment as a matter of discretion.⁹

ORDER: The appeal is dismissed.

⁹ Instead, we reserve those issues. See *I.N.S. v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”).