



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:	)	
	)	
	)	ISCR Case No. 22-02621
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Sakeena Farhath, Esq., Department Counsel  
For Applicant: *Pro se*

02/20/2024

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**Decision**

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DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the foreign influence security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On February 13, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B, foreign influence. Applicant responded to the SOR on March 14, 2023 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on October 24, 2023. The hearing was convened as scheduled on January 30, 2024. I received a transcript (Tr.) of the hearing on February 6, 2024.

**Evidence**

I admitted Government Exhibits (GE) 1 and 2 in evidence without objection. Applicant testified but did not offer any documents in evidence. At Applicant's request and without objection, I left the record open until February 6, 2024, for the parties to provide post-hearing documentation. Applicant timely provided Applicant Exhibits (AE)

A and B, which I admitted without objection. I also marked his transmittal e-mail of these exhibits as Hearing Exhibit (HE) IV.

On the Government's motion, and without objection, I took administrative notice of certain facts about the Republic of Iraq and the Republic of Turkey as of January 23, 2024, as contained in official U.S. Government documents (HE I and II, respectively). On my own motion, I have taken administrative notice of country conditions as set forth in official U.S. Government documents in Romania that I have marked as HE III. Those facts are summarized in the official government documents, so I will not recite them verbatim here, but I will expound upon them in the Findings of Fact.

### **Findings of Fact**

Applicant is a 31-year-old naturalized U.S. Citizen. He has an employment offer from a U.S. defense contractor that is conditioned upon his being granted security clearance eligibility. He was born in Iraq to Iraqi parents. He has a high school diploma from an Iraqi high school. He is currently a full-time student at a U.S. college. Applicant first came to the United States in 2013. He became a naturalized U.S. citizen in December 2020. He holds both U.S. and Iraqi citizenships. He has been married since October 2019. (Tr. 25-27, 33-35; GE 1, 2; AE A)

Applicant's spouse is an Iraqi citizen currently residing in Romania (SOR ¶ 1.a). She was a resident of Iraq, but she left for Romania in 2013. After she left Iraq, she also resided in Turkey. She was a full-time student in Romania until she graduated from a university in Bucharest in about November 2023. After graduating, she took another university class to allow her to maintain residency in Romania until she was granted a U.S. Visa, which she received in January 2024. She plans to come to the United States in April 2024 when she finishes her class. She plans to reside in the United States and has no plans to visit Iraq as she does not like it there and has no family there. Applicant has occasionally sent her money as gifts totaling approximately \$3,500. They contact one another every day via social media or video teleconference. (Tr. 22, 48-62, 100-101; GE 1, 2; AE A)

Applicant has two older brothers who are citizens and residents of Iraq (SOR ¶ 1.b). His eldest brother and family (wife and two children) live in a house that Applicant's mother owns. The eldest brother is not affiliated with the Iraqi government. Applicant has weekly contact with him via telephone. His eldest brother has sent Applicant money in the past to help him get established in the U.S. In 2010 Applicant's eldest brother applied for himself and the rest of his family to come to the United States, as he was being threatened by Iraqi militants for helping U.S. forces. He has not yet been approved for entry to the U.S., although he has not checked on his application status since 2017, because he saw little progress. Applicant claimed that his eldest brother would move to the United States if he and his family were approved for entry. (Tr. 35-47, 72-76, 96-97, 111, 114; GE 1, 2)

Applicant's eldest brother worked as an interpreter for the U.S. Marines in Iraq during the Iraq War. Applicant is aware of two instances when his eldest brother was

targeted by Iraqi militants because he worked for the U.S. military. In about 2007, members of the Al Mahdi Army came to Applicant's family home where his eldest brother and the rest of Applicant's family lived to threaten Applicant's brother. Applicant and his brother's pregnant wife were the only people home at the time. The militants demanded entry and when Applicant would not let them in, they sprayed the home with machine gun fire and threw a grenade at it. When a neighbor came outside to tell the militants that Applicant's brother was not home, the militants shot the neighbor in the shoulder. The militants eventually left without gaining entry and Applicant and his sister-in-law were unharmed. However, the militants said they would be back. (Tr. 35-46, 72-73, 111; GE 1, 2)

Applicant's family left the family home and stayed in other locations with friends and family for about four years. In about 2011, they thought it was safe to come back and began remodeling the home. Shortly after they came back to their home, unknown individuals followed Applicant's eldest brother while he was driving and drove aggressively and dangerously around his car. Fortunately, he was able to lose them. (Tr. 43-46, 111-114; GE 1, 2)

Applicant's other brother is a car salesman in Iraq who has never been affiliated with the Iraqi government. He is married and has two children. Applicant also speaks with this brother about once per week via telephone. This brother has also applied to come to the U.S. In September 2023, the relevant U.S. agency told him to get prepared for an impending interview in furtherance of his application. Applicant claimed that this brother will come to the United States and live with him for a brief time until he gets settled. (Tr. 76-78; GE 1, 2)

Applicant's father-in-law (SOR ¶ 1.c) and mother-in-law (SOR ¶ 1.d) are citizens of Iraq currently residing in Romania, but they also stay for about two weeks per year in Turkey to maintain their residency there. Applicant's father-in-law was a "general major" in the Iraqi military until he retired in 2017. His last post was as an assistant to the Iraqi Minister of Defense. Applicant's mother-in-law is retired and receives an Iraqi pension in an unknown amount. Applicant communicates with his in-laws about once or twice per month via social media or the telephone. (Tr. 52-55, 57, 63-72, 109-111; GE 1, 2)

Applicant's mother, who is a dual U.S. and Iraqi citizen residing in the United States, owns real property in Iraq in which Applicant's eldest brother and his family reside. Applicant has a one-third inheritance right in this Iraqi real property that is valued at about \$200,000. He owns real property in the United States that is valued at about \$324,000, in which he has about \$25,000 in equity. He is several payments behind on his mortgage. He also has an aunt who resided in the United States, but she now lives in Dubai. (Tr. 22, 33-34, 93-96, 106-107, 114-120; GE 1, 2; AE B)

Applicant has never been a member of the Iraqi military or worked for the Iraqi government. While he is a full-time student, he also works part-time for a U.S.-based healthcare provider and part-time for a U.S.-based company at a call center. He currently earns about \$41,000, annually. He has about \$3,000 to \$4,000 in a checking account and a savings account with no money in it. He is several payments behind on

other consumer accounts. He plans to try to find a part-time job as a driver for a U.S.-based corporation providing ride-hailing services to get caught up on his debts. (Tr. 25-26, 90-95; GE 1, 2)

Applicant also has friends who reside in the United States and socializes with them regularly at coffee houses on weekends. Several of his family members know that he is trying to obtain security clearance eligibility. He has no other family members in Iraq. He expressed his loyalty to the United States over Iraq and considers the United States his home, but he also acknowledged that he considers home wherever he can get together with his family. He claimed that he is willing to renounce his Iraqi citizenship and has some information about how to do so, but he has not begun that process. (Tr. 97-98, 102-106, 108-109; GE 1, 2)

Since he arrived in the United States in 2013, Applicant visited Iraq for several weeks in 2019 and 2022. He had in-person contact with his family members during these visits. He visited his wife and in-laws in Turkey for 20 days in 2022 and in Romania for a few days in January 2024. (Tr. 28-31, 55-56, 67-69; GE 1, 2; AE A)

## **Republic of Iraq**

In HE I, the Government included information from the U.S. Department of State as of January 2024, about the United States' relations with Iraq and the current conditions in that country. I take administrative notice of the information contained in those documents including, but not limited to:

The U.S. Department of State has assessed Iraq as being a high threat, "Level 4: Do not travel" location due to terrorism, kidnapping, armed conflict, civil unrest, and limited ability to assist U.S. citizens in country. U.S. citizens in Iraq are at high risk for violence and kidnapping. Terrorist and insurgent groups regularly attack both Iraqi security forces and civilians. Anti-U.S. sectarian militias threaten U.S. citizens and Western companies throughout Iraq. Attacks using improvised explosive devices (IEDs) occur in many areas of the country, including Baghdad. Demonstrations, protests, and strikes occur frequently. These events can develop quickly without prior notification, often interrupting traffic, transportation, and other services; such events have the potential to turn violent.

The country experienced large-scale protests in Baghdad and several Shia-majority provinces beginning in 2019 and lasting through 2022, with reports of more than 500 civilians killed and 20,000 or more injured. Another, similar incident in August 2022 resulted in more than 20 deaths. The government took minimal steps to bring to justice those responsible for the violence.

Terrorist groups and those inspired by such organizations are intent on attacking U.S. citizens abroad. Primary terrorist threats within Iraq included Islamic State in Iraq and Syria (ISIS) and Iran-aligned militia groups. ISIS is a designated terrorist organization, which is active in Syria and near the Iraq border. ISIS and its associated terrorist groups indiscriminately commit attacks and violent atrocities in Iraq despite

improved Iraqi government control. ISIS, militia groups, and criminal gangs target U.S. citizens for attacks and hostage-taking.

There have been significant human rights issues in Iraq, including: credible reports of unlawful or arbitrary killings; extrajudicial killings and forced disappearances by the government; torture and cruel, inhumane, and degrading treatment by the government; and arbitrary arrest and detention.

## **Republic of Turkey**

In HE II, the Government included information from the U.S. Department of State as of January 2024, about the United States' relations with Turkey and the current conditions in that country. I take administrative notice of the information contained in those documents including, but not limited to:

Turkey is a constitutional republic with an executive presidential system and a unicameral 600 seat parliament (the Grand National Assembly). In presidential and parliamentary elections in 2018, Organization for Security and Cooperation in Europe observers expressed concern regarding restrictions on media reporting and the campaign environment, including the jailing of a presidential candidate that restricted the ability of opposition candidates to compete on an equal basis and campaign freely.

The friendship between the United States and Turkey dates back to 1831, when the United States established diplomatic relations with the Ottoman Empire. The United States condemned the July 15, 2016 coup attempt in Turkey, and continues to emphasize the importance of the Turkish government's adherence to policies and actions that build public trust in the country's democratic institutions and the rule of law, as well as upholding human rights commitments. Turkey is an important U.S. security partner and has been a valued North Atlantic Treaty Organization (NATO) ally since 1952.

On December 14, 2020, the United States imposed sanctions on the Republic of Turkey's Presidency of Defense Industries (SSB) pursuant to Section 231 of the Countering America's Adversaries Through Sanctions Act (CAATSA) for knowingly engaging in a significant transaction with Russia's main arms export entity by procuring the S-400 surface-to-air missile system. The United States made clear to Turkey at the highest levels and on numerous occasions that its purchase of the S-400 system would endanger the security of U.S. military technology and personnel and provide substantial funds to Russia's defense sector, as well as Russian access to the Turkish armed forces and defense industry. Turkey nevertheless decided to move ahead with the procurement and testing of the S-400, despite the availability of alternative, NATO-interoperable systems to meet its defense requirements. This decision resulted in Turkey's suspension and pending removal from the global F-35 Joint Strike Fighter partnership.

Turkey continues its efforts to defeat terrorist organizations both inside and outside its borders, including the Kurdistan Workers' Party (PKK), the Revolutionary

People's Liberation Party/Front, and ISIS. Turkey is an active contributor in international counterterrorism, including the GCTF and the Defeat-ISIS Coalition. However, Turkey is a source and transit country for foreign terrorist fighters (FTFs) seeking to join ISIS and other terrorist groups fighting in Syria and Iraq, as well as for FTFs who seek to depart Syria and Iraq. Moreover, the PKK continues to conduct terrorist attacks in Turkey and against Turkish interests outside of Turkey including by taking hostages.

In 2020, the PKK and its affiliates claimed responsibility for a rocket attack on the Gurbulak customs gate with Iran that killed two Turkish Customs officials, a suicide bomber that struck a natural gas pipeline near the Turkish-Iranian border, taking the pipeline offline for months, and a bombing in Mardin province that temporarily disabled an oil pipeline running from Iraq to Turkey. Turkey has a broad definition of terrorism that includes so-called crimes against constitutional order and internal and external security of the state, which the government regularly used to criminalize the exercise of freedom of expression and peaceful assembly.

Significant human rights issues exist in Turkey including credible reports of: arbitrary killings; suspicious deaths of persons in custody; forced disappearances; torture; arbitrary arrest and continued detention of tens of thousands of persons, including opposition politicians and former members of parliament, lawyers, journalists, human rights activists, and employees of the U.S. Mission, for purported ties to “terrorist” groups or peaceful legitimate speech. There are also reports of severe restrictions on freedom of expression, the press, and the internet, including violence and threats of violence against journalists, closure of media outlets, and arrests or criminal prosecution of journalists and others for criticizing government policies or officials, censorship, site blocking, and criminal libel laws.

The Turkish government took limited steps to investigate, prosecute, and punish members of the security forces and other officials accused of human rights abuses; and impunity remained a problem. The government took limited steps to investigate allegations of high-level corruption. Clashes between security forces and the Kurdistan Workers' Party terrorist organization and its affiliates continued and resulted in the injury or death of security forces, terrorists, and civilians. The government did not release information on efforts to investigate or prosecute personnel for wrongful or inadvertent deaths of civilians linked to counterterrorism operations.

The U.S. State Department warns U.S. citizens to exercise increased caution when traveling to Turkey due to terrorism and arbitrary detentions. Terrorist groups continue plotting possible attacks in Turkey. Terrorists may attack with little or no warning, targeting tourist locations, transportation hubs, markets/shopping malls, local government facilities, hotels, clubs, restaurants, places of worship, parks, major sporting and cultural events, educational institutions, airports, and other public areas. Security forces have detained tens of thousands of individuals, including U.S. citizens, for alleged affiliations with terrorist organizations based on scant or secret evidence and grounds that appear to be politically motivated. U.S. citizens have also been subject to travel bans that prevent them from departing Turkey.

## Romania

Official U.S. Government documents for Romania contained in HE IV included information from the U.S. Department of State as of January 2024, about the United States' relations with Romania and the current conditions in that country. I take administrative notice of the information contained in those documents including, but not limited to:

In 1947, the United States reestablished ties with Romania after World War II. Relations remained strained during the Cold War era while Romania was under communist leadership. After the 1989 revolution ended communist rule, Romania's policies became unequivocally pro-Western. Romania and the United States deepened their relations and cooperation on shared goals including economic and political development, defense reform, and non-traditional threats such as transnational crime and non-proliferation.

In 2011, Romania and the United States issued a joint declaration of strategic partnership for the 21st century. The two countries identified key areas of enhanced cooperation, focusing on political-military relationships, law-enforcement cooperation, trade and investment opportunities, and energy security. In 2016, the two countries reaffirmed their commitment to this cooperation. They mutually committed to supporting human rights, the rule of law, and peace and freedom for everyone. The two countries are bound together through people-to-people ties in business, the arts, scholarship, and other exchanges. Romania has promoted great cooperation among its Black Sea neighbors in the areas of defense, law enforcement, energy, economic development, and the environment, which complement the U.S. goal of enhancing stability in this sensitive and important region.

Romania joined the North Atlantic Treaty Organization (NATO) in 2004 and has established itself as a steadfast ally of both the United States and NATO. It has repeatedly deployed forces and assets in support of shared national security interests, including contributions of troops, equipment, and other assistance in Afghanistan, Iraq, Libya, and Kosovo.

The Romanian constitution provides for freedom of speech and press, and the government generally respects these rights. An independent press, largely independent judiciary, and functioning democratic political system combine to promote freedom of speech and press.

Human rights problems include police and gendarmerie mistreatment and harassment of detainees. Prison conditions remain harsh and do not meet international standards. Government efforts to address systematic corruption continue, but corruption remains widespread. There are no reports that the government or its agents committed arbitrary or unlawful killings. There are no reports of politically motivated disappearances. The constitution and law prohibit arbitrary arrest and detention and the government generally respects these prohibitions. The constitution provides for an

independent judiciary and the government generally respects this provision. There are no reports of political prisoners or detainees.

## **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.



Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The security concern for foreign influence is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

The nature of a nation's government, including its level of control, its relationship with the United States, and its human-rights record are relevant in assessing the likelihood that an applicant's family members and foreign contacts are vulnerable to coercion or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member or friend is associated with or dependent upon the government, the country is known to conduct intelligence collection operations against the United States, or the foreign country is associated with a risk of terrorism.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

Applicant's two brothers are citizens and residents of Iraq. His eldest brother has twice been the target of terrorism by anti-U.S. militants. Applicant's connection to his Iraqi family members residing in Iraq presents a potential conflict of interest. The administratively noticed country conditions in Iraq, such as terrorism, civil unrest, and its human-rights record, raise these security concerns to the level of a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.

Applicant's wife and in-laws are citizens of Iraq residing in Romania. While country conditions in Romania may not raise security concerns to the level of a heightened risk, his relationships with his wife and in-laws living in Romania create a potential conflict of interest.

Applicant's in-laws reside part-time in Turkey, which also creates a potential conflict of interest. Additionally, his father-in-law was a high-ranking member of the Iraqi military with a close connection to the Iraqi Defense Minister. While Turkey has been a longtime friend to the United States with shared interests in counterterrorism, there is also a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion associated with that country given its human rights violations and the terrorist activity that occurs within its borders.

Applicant's relationship with his wife, brothers, and in-laws is sufficiently close to raise a security concern about his desire to assist them by providing sensitive or classified information. As a matter of common sense and human experience there is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. Application of the AG is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved one, such as a family member. (ISCR Case No. 08-10025 at 4 (App. Bd. Nov. 3, 2009)). AG ¶¶ 7(a) and 7(b) are established.

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are potentially applicable:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Romania is an ally of the United States and a member of NATO. There is no evidence that it attempts to obtain classified or sensitive information from the U.S. While Romania's human rights record is not spotless, its constitution and laws guarantee basic human rights and personal freedoms. I find that it is unlikely that Applicant's wife will cause Applicant to be put in a position of having to choose between the interests of the U.S. and Romania. AG ¶ 8(a) fully applies to Applicant's Iraqi wife residing in Romania. I find the allegations in SOR ¶ 1.a for Applicant.

Country conditions in Iraq raise security concerns to the level of a heightened risk. Applicant has two brothers in Iraq with whom he maintains close and frequent contact. One of these brothers was known to anti-U.S. militant forces and was twice targeted because he assisted the U.S. during the Iraq War. While Applicant does not currently own any property in Iraq, his potential future inheritance rights involve substantial property interests there. He has some family here and other ties to the United States, such as owning real property, but I do not find that those ties are greater than the bonds he has with his brothers. I find that he has failed to provide sufficient evidence that any of the Guideline B mitigating conditions apply with respect to his brothers in Iraq.

Applicant's close and continuing relationship with his in-laws emanates from his relationship with his wife. Country conditions in Turkey raise security concerns to the level of a heightened risk. While Applicant's in-laws only reside there for a few weeks per year, they consistently do so to maintain their legal residency in Turkey despite also residing in Romania. Applicant's father-in-law was a high-ranking officer in the Iraqi Army until 2017. Given these considerations, I cannot find that it is unlikely that Applicant's contact with his in-laws is so casual that it is unlikely that he will be placed in a position of having to choose between the interests of his in-laws and the interests of the United States. I also cannot find that Applicant can be expected to resolve any conflict of interest in favor of the U.S. interest.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) The nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline B in my whole-person analysis. While circumstances may change in the future for Applicant if certain family members relocate to the United States, I cannot decide this matter based upon those possibilities.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the foreign influence security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.d:	Against Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Benjamin R. Dorsey  
Administrative Judge