

KEYWORD: Foreign Influence; Foreign Preference

DIGEST: Applicant is a technical director for a defense contractor. He was born in Turkey, and received his undergraduate degree from a university in Turkey. He came to the United States for graduate education, married his United States citizen wife, and became a naturalized United States citizen. His mother, father, and brother reside in Turkey. He visits them each year and talks to them a few times a week. He attended required military training in Turkey after receiving United States citizenship to please his parents and facilitate renunciation of Turkish citizenship. He formally requested renunciation of his Turkish citizenship, and it was granted by the Turkish government. Applicant mitigated security concerns for foreign preference and influence. Clearance is granted.

CASENO: 04-05463.h1

DATE: 12/21/2005

DATE: December 21, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-05463

**DECISION OF ADMINISTRATIVE JUDGE**

**THOMAS M. CREAN**

**APPEARANCES**

## **FOR GOVERNMENT**

Jason Perry, Esq., Department Counsel

## **FOR APPLICANT**

*Pro Se*

## **SYNOPSIS**

Applicant is a technical director for a defense contractor. He was born in Turkey, and received his undergraduate degree from a university in Turkey. He came to the United States for graduate education, married his United States citizen wife, and became a naturalized United States citizen. His mother, father, and brother reside in Turkey. He visits them each year and talks to them a few times a week. He attended required military training in Turkey after receiving United States citizenship to please his parents and facilitate renunciation of Turkish citizenship. He formally requested renunciation of his Turkish citizenship, and it was granted by the Turkish government. Applicant mitigated security concerns for foreign preference and influence. Clearance is granted.

## **STATEMENT OF THE CASE**

On April 22, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its decision to deny a security clearance for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive). Applicant acknowledged receipt of the SOR on May 18, 2005. The SOR alleges security concerns under Guideline B (Foreign Influence), and Guideline C (Foreign Preference) of the Directive.

Applicant answered the SOR in writing on May 24, 2005. He admitted the allegations under Guidelines B and C. He requested a hearing before an administrative judge, and the request was received by DOHA on May 26, 2005. Department Counsel was prepared to proceed with the case on September 28, 2005, and the case was assigned to me on September 30, 2005. A notice of hearing was issued on October 20, 2005, and the hearing convened on November 8, 2005. Three government exhibits without objection, four Applicant exhibits without objection, the testimony of one applicant witness, and the testimony of the Applicant were received during the hearing. DOHA received the transcript on November 23, 2005.

## FINDINGS OF FACT

Applicant is a 40-year-old technical director for a defense contractor. He was born in Turkey, and received his undergraduate degree in electrical engineering from a university in Turkey, and worked for a private company in Turkey. He came to the United States in 1988 for higher education receiving a Master's degree in 1993 from a United States university. He is pursuing an additional Masters degree part-time at another United States university. He married his wife, a United States citizen born in the United States in 1996. They have one child. Applicant became a naturalized United States citizen on May 17, 2001.<sup>(1)</sup> He has worked for the defense contractor for over eight years and is highly regarded.<sup>(2)</sup>

Applicant's mother, father, and brother live in Turkey. His mother is a housewife and has never worked outside the home. His father is a retiree from private business, but works part-time at a packaging store. His brother works full-time at the packaging store. His brother is married and his wife is a housewife. None of his relative have worked for the Turkish government. His father and brother have served in the Turkish military as required by Turkish law for all Turkish males. Applicant visits his family in Turkey every year and calls them about one or two times a week. His parents have visited him and his family in the United States three times, the last visit in 2003.<sup>(3)</sup>

When Applicant became a United States citizen in 2001, he surrendered his Turkish passport to Turkish authorities. At the same time, He also renounced his Turkish citizenship and his request was approved by the appropriate Turkish authorities.<sup>(4)</sup>

In the summer 2002, Applicant returned to Turkey for a one month required military training obligation for Turkish male citizens living outside Turkey. The training consisted of an orientation on Turkey and some military drills, but not instruction in tactics or marksmanship. Applicant wanted to complete the training for his parents, since it is considered in Turkish culture a step to manhood. Applicant was informed by his instructors that he did not have to participate in the training, but he completed the training. He wanted to renounce Turkish citizenship and felt if he completed the training, the Turkish authorities would be more likely to approve his request for renunciation of citizenship.<sup>(5)</sup>

Turkey, also known as the Republic of Turkey, is a Middle East country that has been officially secular since 1924. Turkey's system of government is democratic, secular, and parliamentary. Turkey entered the North Atlantic Treaty Organization (NATO) in 1952, and serves as the organization's vital eastern anchor, controlling the straits leading from the Black Sea to the Mediterranean and sharing a border with Syria, Iraq, and Iran. A NATO headquarters is located in Izmir. The relations between the United States and Turkey are longstanding and strong. There is terrorism and terrorist groups operating in and from Turkey. The Turkish government generally respects the human rights of its citizens.

Extensive legal reforms on human rights were implemented to meet the requirements of Turkey's entry into the European Union. There are some problems concerning the actions of security forces, but the overall use of torture and ill-treatment is decreasing. There is more tolerance for controversial speech and handling of non-violent demonstrations. [\(6\)](#)

## POLICIES

The President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." [\(7\)](#) Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. [\(8\)](#)

The Directive sets out the adjudicative guidelines for making decisions on security clearances. Enclosure 2 of the Directive sets forth adjudicative guidelines for determining eligibility for access to classified information, and it lists the disqualifying conditions and mitigating conditions for each guideline. Each clearance decision must be fair, impartial, and a commonsense decision based on the relevant and material facts and circumstances, the whole person concept, and the factors listed in the Directive ¶ 6.3.1 through ¶ 6.3.6.

The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance. An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. [\(9\)](#) An administrative judge should consider: (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 applicant's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation of recurrence. [\(10\)](#)

A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. [\(11\)](#) It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may

disqualify the Applicant from being eligible for access to classified information.<sup>(12)</sup> Thereafter, Applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts.<sup>(13)</sup> An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance."<sup>(14)</sup> "[T]he Directive presumes there is a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability."<sup>(15)</sup> "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security."<sup>(16)</sup>

Based upon a consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

**Guideline B - Foreign Influence:** A security risk exists when an individual's immediate family, including co-habitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situation could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercions, exploitation, or pressure.

**Guideline C - Foreign Preference:** A security concern exists when an individual acts in such a way as to indicate a preference for a foreign country over the United States, and may be prone to provide information or make decisions that are harmful to the interests of the United States.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions section below.

## CONCLUSIONS

I carefully considered all of the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

The government established its case under Guideline B. Applicant's mother, father, and brother in Turkey brings the matter under Foreign Influence Disqualifying Condition E2.A2.1.2.1 (*an immediate family member, or a person to*

*whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country).* They are all citizens and residents of Turkey. I conclude the disqualifying condition has been established.

The Foreign Influence Mitigating Conditions that must be evaluated concerning the relatives in Turkey are E2.A2.1.3.1 (*a determination that the immediate family members are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the persons involved and the United States*), and E2.A2.1.3.3 (*contact and correspondence with foreign citizens are casual and infrequent*).

An immediate family member includes spouse, father, mother, sons, daughters, brothers, sisters. (17) Applicant visits his family in Turkey every year and talks to them on the telephone a few times a week. His contacts with them are not casual; and not infrequent, therefore Mitigating Condition E2.A2.1.3.3 does not apply. His family are not agents of a foreign power since they are not engaged in intelligence work but are a housewife, a retiree, and a private business person. (18) This leaves the question whether the family members are in a position to be exploited by a foreign power in a way that could force Appellant to choose between loyalty to the family in Turkey and the United States. The disqualifying condition requires that a foreign power would exploit its citizens or residents in such a way as to have Applicant act adversely to the interests of the United States. A factor to consider, while not determinative, is the character of the foreign power and entities within the foreign country. This review is not limited to countries that are hostile to the United States. Friendly countries may have profound disagreements with the United States or have engaged in espionage against the United States especially in economic, scientific, military, and technical fields. A friendly relationship is not determinative, but it may make it less likely that a foreign government would attempt to exploit a U.S. citizen through relatives or associates in that foreign country. Turkey is a modern country, a long standing member of NATO with a NATO headquarters in its country. They have close military, commercial, and trade ties to the United States. It is an ally with the United States in combating terrorism. There are terrorist activities and human rights abuses in the country, but Turkey has made many strides to improve its human rights practices and conform to the requirements of the European Union. I find Applicant's family in Turkey are no more vulnerable to exploitation by a foreign power than any other person in the country, and the likelihood of exploitation is so minimal it is not a security concern. Applicant has met his heavy burden to established Foreign Influence Mitigating Condition E2.A2.1.3.1.

The government has established its case under Guideline C. The security concern under Guideline C is when an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interest of the United States. Applicant's military training in Turkey after obtaining United States citizenship brings the matter under Foreign Preference Disqualifying Condition E2.A3.1.2.3 (*Military service or a willingness to bear arms for a foreign country*). Applicant acknowledged he turned to Turkey in 2002 to complete Turkish military training even though he was a United State citizen. The training was minor and involved an orientation and minimal military drills. He did it to please his parents as part of a rite of passage to manhood under Turkish culture, and to facilitate his renunciation of Turkish citizenship since the Turkish authorities knew the military training had been completed. The military training was not for the purpose of preparing Applicant to service in the Turkish military, and does not show willingness to bear arms for and being prepared to defend Turkey. Applicant took the affirmative step of formally renouncing his Turkish citizenship with Turkish authorities after completion of the training. While none of the Mitigating Conditions for Foreign Preference apply in this case, I conclude Applicant did not act in such a way as to indicate a preference for Turkey over the United States. By formally renouncing his Turkish citizenship, he did just the opposite, showed his preference for the United States over Turkey. Guideline C is resolved in favor of Applicant.

I carefully considered all of the circumstances in light of the "whole person" concept. I conclude Applicant is eligible for access to classified information.

## **FORMAL FINDINGS**

Formal findings for or against Applicant on the allegations in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are;

Paragraph 1, Guideline B: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Paragraph 2, Guideline C: FOR APPLICANT

Subparagraph 2.a.: For Applicant

## **DECISION**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant or continue a security clearance for Applicant. Clearance is granted.

Thomas M. Crean  
Administrative Judge

1. Tr. 29; Government Exhibit 1 (Security Clearance Application, dated Sep. 12, 2002).
2. Appellant Exhibit C (Reference Letter, dated Oct. 14, 2005).
3. Tr. 35, 40-42.
4. Tr. 18-20, 34; Appellant Exhibit A (Letter from Embassy of Turkey, dated Dec 9, 2003); Appellant Exhibit B (Letter from Turkey Ministry of Interior, undated).
5. Tr. 25-28, 36-39.
6. Court Exhibit 1 (Consular Information Sheet-Turkey, dated Sep. 28, 2005); Court Exhibit 2 (U.S. Department of State Country Report on Human Rights Practices-Turkey, dated Feb. 28, 2005); Court Exhibit 3 (U.S. Department of State Patterns of Global Terrorism, dated Jun. 22, 2004).
7. *Department of the Navy v. Egan*, 484 U.S. 518 (1988).
8. Directive ¶ E2.2.1.
9. *Id.*
10. Directive ¶¶ E2.2.1.1 through E2.2.1.9.
11. *See* Exec. Or. 10865 § 7.
12. Directive ¶ E3.1.14.
13. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002); *see* Directive ¶ E3.1.15.
14. ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
15. ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996) (quoting DISCR Case No. 92-1106 (App. Bd. Oct. 7, 1993))
16. *Egan*, 484 U.S. at 531; *see* Directive ¶ E2.2.2.
17. Directive E2.A2.1.3.1.
18. *See*, 50 U.S.C. §§ 435, 438, and 1801 (b). *See also*, ISCR Case No. 02-24254 (App. Bd. Jun. 29, 2004) for a broader definition of "agent of a foreign power."