



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



In the matter of: )  
)  
) ICSR Case No. 08-11969  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: William T. O'Neil, Esquire, Department Counsel  
For Applicant: *Pro se*

January 14, 2011

**Decision**

CREAN, THOMAS M., Administrative Judge:

Based on a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted. Applicant mitigated security concerns for foreign preference and foreign influence.

Applicant submitted an electronic Questionnaire for Investigative Processing (e-QIP) on October 24, 2007, for his employment with a defense contractor. On June 7, 2010, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns for foreign influence under Guideline B, and foreign preference under Guideline C. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective in the Department of Defense on September 1, 2006. He acknowledged receipt of the SOR on June 11, 2010.

Applicant timely answered the SOR. He admitted all of the factual allegations under both Guideline B and Guideline C. Applicant requested a hearing before an administrative judge. Department Counsel was prepared to proceed on August 12, 2010. The case was assigned to me on September 8, 2010. Department Counsel was

also prepared to proceed on a companion case concerning the same security concerns involving Applicant's wife. Since the facts and circumstances were almost exactly the same in both cases, a joint hearing, with the concurrence of Department Counsel and both Applicants, was held. DOHA issued a Notice of Hearing on September 15, 2010, for a hearing on October 7, 2010. I convened the hearing as scheduled. The Government offered five exhibits, marked and received into the record without objection as Government Exhibits (Gov. Ex.) 1 through 5. Applicant and two witnesses testified on his behalf. Applicants offered a combined 25 exhibits marked and admitted in to the record as Applicant Exhibits A through Y. Most of the exhibits pertained to both Applicants. Any exhibits that pertain solely to one of the Applicants will be clearly identified in this decision. The record was held open for Applicant to submit additional documents. Applicant timely submitted one additional document admitted as App. Ex. Z. The Government had no objections to the document. (Gov. Ex. 6, Memorandum, dated December 10, 2010). DOHA received the transcript (Tr.) of the hearing on October 18, 2010.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact. Applicant admitted all of the factual allegations raised in the SOR.

Applicant is 64 years old, and has been a principal information systems engineer for a defense contractor for over three years. He has a bachelor's degree in electrical engineering, a master's degree in computer science, and has completed other post-graduate courses. He has been married for over 35 years and has three grown children all born in the United States. Applicant and his wife reside in the United States. His wife is a dual citizen of the United States and Estonia born in the United States of Estonian parents who also immigrated to the United States through a refugee camp. She grew up in an Estonian household and speaks fluent Estonian. She is a freelance translator of Estonian and English and has received translation projects from the United States government, Estonian government, and private sources. They frequently attend social events at the Estonian embassy. One daughter works for an Estonian government agency as a translator and lives and resides in Estonia. Applicant and his wife talk to her frequently and see her when they visit Estonia. The other daughter is a doctoral student at a United States university. Their son recently left active duty with the Marine Corps after serving two tours in Iraq and resides in the United States. Applicant and his wife speak Estonian at home, and his entire family is fluent in Estonian. (Tr. 21-25, 45-50, 56-57; Gov. Ex. 3, e-QIP, dated October 24, 2007; App. Ex. L, Certificate, dated February 22, 2008). Applicant provided a detailed affidavit concerning his life story, connections to Estonia, and responses to security issues raised in the SOR. (Gov. Ex. 5, Affidavit, dated July 11, 2008)

Applicant's parents were originally from Estonia. They fled Estonia during World War II when Estonia was occupied for a second time by the Soviet Union. They went to a refugee camp in Germany where Applicant was born in 1946. Three years later in

November 1949, the family came to the United States and finally settled a year later in permanent location. Applicant grew up in a normal United States community. His father was a mechanic at a local plant and his mother was a housewife. He lived in a typical United States community, playing with friends and attending and graduating from the local schools. He started school not speaking English since it was not spoken at home. He quickly learned English and assisted his parents learning the language so they could become United States citizens in 1956. He became a citizen in 1960 at the age of 14. (Tr. 28-33; App. Ex. A, Citizen certificate, dated May 10, 1984)

Applicant attended a state university matriculating in electrical engineering as well as being a member of the Air Force Reserve Officer's Training Corps (ROTC). His parents were refugees from communism and he felt the way to fight back was to join the armed forces. His grades and participation in the program was sufficient for him to be selected for, and receive, an Air Force scholarship to pay for part of his education. He received his bachelor's degree in electrical engineering, was selected as a distinguished military graduate, and commissioned in the Air Force in 1968. (App. Ex. B, Transcript, dated June 10, 1968; App. Ex. D, Appointment Order, dated June 5, 1968) He applied for and received an educational deferment to pursue a master's degree. He received a master's degree in computer science in August 1970. (App. Ex. C, Transcript, dated August 20, 1970) He entered Air Force active duty, and served two years as a computer programmer supporting the air defense system. He had a secret security clearance while on active duty. (Tr. 34-39; App. Ex. D, Appointment Order, dated June 5, 1968; App. Ex. E, Special Orders, dated June 9, 1971; App. Ex. F, DD 214, dated August 15, 1972)

After leaving the Air Force, Applicant worked for defense contractors in the computer field, and his clearance was ungraded to top secret. (App. Ex. G, Letter, dated July 28, 1980) His clearance was again upgraded based on a special background investigation to permit work in the intelligence field. (App. Ex. H, Security Information, dated June 16, 1981) Shortly thereafter, he left employment with the defense contractors and had no requirement for access to classified information. However, he was a contractor working in the nuclear field for the United States Department of Energy. He represented the United States in some aspects of the nuclear program with the International Atomic Energy Agency and held the equivalent of a top secret clearance for them. His defense contractor employer had a contract with the Internal Revenue Service (IRS). To accomplish his duties, he was granted unescorted access to sensitive information by the IRS. However, his 2006 application for a top secret equivalent nuclear clearance from the Nuclear Regulatory Commission was denied based on guidelines B and C security concerns without explanation in January 2006. (Tr. 40-46, 57-58; App. Ex. I, Letter, dated December 18, 2008)

Estonia became an independent country again when the Soviet Union collapsed in 1991. He was considered by Estonia to be a dual citizen of the United States and Estonia. He registered for and received a certificate permitting him to vote in the Estonian elections in 2002. He also voted in the elections in 2007. His primary reason for voting was to vote for very pro-American candidates. He was not encouraged by any official in the United States to vote in Estonia. He does not intend to vote in any further

Estonian elections because he feels Estonia has established itself and can stand on its accomplishments. Neither he nor his family received any educational benefits from Estonia. They are also not entitled to any other benefits from Estonia. The only family member who may have received medical benefits from Estonia is his daughter who works for the Estonian government. (Tr. 56-57)

Applicant worked for Estonia in 2006-2007 as a private contractor translating cyber defense security documents into English. He was hired by an Estonian friend who was president of an Estonian computer company. He was paid in European currency (Euros) for his work on the project. He also worked on the computer technology part of a project to clean up a former nuclear site in Estonia left by the departing Soviet Union forces. Taxes were withheld by Estonia from his payments for these services but were refunded when he declared the income on his United States tax returns and paid tax on the income in the United States. (Tr. 59-67; App. Ex. Y, Summary Report, dated October 5, 2010)

In 2003, he learned of a potential business prospect working for a company doing process reengineering for an Estonian agency. He had to be an Estonian citizen to work on the project because funding was provided by the European Union. Applicant applied for and was issued an Estonian passport in July 2003. The passport expires in July 2013. The process to obtain the passport was difficult and complicated. He had to verify his parents were Estonian citizens, provide proof he was their son, and go to Estonia to apply. He obtained evidence of his parents' citizenship from Estonian records, and his birth to them from German records. He had to go to Estonia to apply for and receive the passport. He could not apply at the Estonian Embassy in the United States. He did not have to take an oath of affirmation to the Estonian government to obtain the passport. He used the passport to enter Estonia as a matter of convenience in July 2004, October 2005, December 2005, March 2007, and February 2009. He used the passport as identification to purchase a condominium. (Tr. 50-56; Gov. Ex. 4, Answers to Interrogatories, date April 16, 2009) He recently surrendered the passport to his company's security officer. (App. Ex. M and App. Ex. Z, Affidavit, dated October 6, 2010)

Applicant owns a condominium used as a vacation home and a place to stay when he visits Estonia. He paid approximately \$64,000 for the condominium and made over \$15,000 in improvements. He obtained a loan from an Estonian bank for the purchase. He paid the mortgage using a bank account in an Estonian bank. He has paid the mortgage and the property is now valued at approximately \$160,000. He still maintains the bank account using it to pay for maintenance on the condominium. (Tr. 66-70, 74-75) Applicant and his wife's total net worth in the United States in property and accounts is approximately \$1,000,000.

Applicant has a friendship and relationship with a current high ranking Estonian official. The official was born in Europe when his parents were refugees from the Soviet forces, and immigrated to the United States and settled in the same state but not the same town as Applicant's family. However, they both attended a Boy Scout camp for Estonian-American boys and Applicant served as his counselor in the camp because he

was older than him. Before he was elected to his present position in Estonia, he served in another high ranking position and Applicant saw him on occasion. He returned to Estonia to take another government position. Applicant has had little if any contact with him since he returned to Estonia and was elected to the high ranking position. Applicant may attend a reception at the embassy for the official but Applicant would be just one of the people at the reception. Applicant admits he knows other high ranking people in the Estonian government. However since 2008, there have not been any appointees to high level positions that he knows. (Tr. 70-74) Applicant is still involved with the Estonian-American Boy Scout camp as a volunteer caring for the equipment in the camp. (Tr. 78-80)

Applicant was pleased when the yoke of Soviet occupation was lifted from Estonia in 1991. He felt a cultural and heredity connection to Estonia and relieved for his cousins still in the country. He reads an Estonian-American newspaper on occasion but the news is mainly about Estonians in the United States and Canada. He does not follow political events in Estonia even though his friend is the president and will be up for reelection in 2012. While Applicant is in agreement with the pro-western movement in Estonia, he does not have a sense of loyalty to them. Estonia has progressed to the point that it has a well-established parliamentary system, follows a rule of law, and has a transparent government open to all people. He followed the events concerning the Soviet invasion of Georgia and the Estonian president's solidarity against the invasion with other presidents from Baltic countries. He does not have regular contact with anyone in Estonia other than his daughter. Applicant at one time thought about retiring in Estonia but he no longer has the desire. He intends to spend time in Estonia but not retire there because the medical care is not as good as in the United States. Applicant's connection to Estonia is based on heritage and culture but his loyalty is unequivocally with the United States. (Tr. 80-94)

Applicant's wife gave testimony at the hearing in support of her husband. The other witness is a retired Air Force major general of Estonia heritage who served over 28 years on active duty. She met Applicant and his wife at an Estonian-American cultural event in approximately 1998. Applicant's life story is similar to her story since she was also born in the same refugee camp as Applicant. Her family settled in another northeastern state and she attended school and obtained a degree and a commission through the ROTC program. As other refugees, she is so profoundly grateful for the refuge given her by the United States and the opportunities presented to her that she joined and served in the armed forces. She served as a military attaché in the Baltic and has visited Estonia. She knows of no Estonian person who willingly became a United States citizen that would choose Estonia over the United States. She knows Applicant and he would not choose Estonia over the United States. She has positive feelings concerning Applicant's reliability, trustworthiness, judgment, and loyalty. If she were in a position, she would hire Applicant and recommend him for a security clearance. (129-138)

Applicant presented a letter of recommendation from one of his former supervisors. The supervisor has known Applicant since 1995 and worked closely with Applicant on projects until 1998. During this time, they had a close personal relationship

while working and traveling on projects. Since they stopped working together in 1998, he has kept in close contact with Applicant. The supervisor holds a security clearance and is well aware of the requirements for a security clearance. He is aware of Applicant's dual citizenship with Estonia and his activities and trips to Estonia. He knows of nothing to doubt Applicant's trustworthiness or loyalty. (App. Ex. J, Letter, dated October 3, 2010)

Estonia is a country of approximately 1.4 million people, with a parliamentary democracy under a Constitution in force since 1992. The head of state is the President elected for a five-year term. He mainly has a representational role with some executive powers. He is the supreme commander of the armed forces. The national legislature is a unicameral parliament of 101 members elected for four year terms. The executive power is exercised by the Prime Minister appointed by the parliament.

The United States recognized Estonia in 1922 and continued its recognition during the illegal occupation of Estonia by the Soviet Union from 1940 until 1991. The United States recognized the legal representative of Estonia and never recognized the Soviet annexation. This recognition has been the cornerstone of Estonian-United States relationships. The bilateral relationship between Estonia and the United States has been steady and strong since Estonia restored its independence in 1991. The developing relationship has been constructive and stable. The United States is one of Estonia's most important partners. The strong bilateral relationship is corroborated by the dialogue between the countries in several matters of great importance to Estonia as well as the United States. There is practical cooperation in the areas of defense, international fight against terrorism, economic cooperation, and crime prevention.

Estonia became a member of NATO on March 29, 2004, and a member of the European Union on May 1, 2004. These memberships show a strong strengthening relationship with Estonia and members of the alliance and the United States. The United States played a decisive role in Estonia's approval to be a member of NATO. Estonia has participated in the United States led NATO military operations in Afghanistan since 2002. They also participated in the NATO Kosovo operation in 1999, and in Iraq from 2003 until 2008. (App. Ex. O, Estonia 2010; App. Ex. Q, Estonia and the European Union, dated June 18, 2010; App. Ex. R, Estonia and the United Nations, dated April 2, 2010; App. Ex S, Estonia and the US, undated; App. Ex. T, Estonia as a full member of NATO, undated; App. Ex U, COE Status Map, dated September 29, 2010; App. Ex. V, History of Deployments since 1995, undated; App. Ex. W, Country Reports on Terrorism 2009, dated August 2010; and App. Ex. X, Embassy of the United States, Speeches and articles, date June 14, 2010)

## **Policy**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered 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, these guidelines are applied 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 access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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 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.

## **Analysis**

### **Guideline B: Foreign Influence**

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in the U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including but not limited to, such consideration as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism. (AG ¶ 6)

Applicant's daughter is a dual citizen of Estonia and the United States who lives in Estonia and is employed as a translator and press and information officer for the Estonian foreign ministry. Applicant's wife is also a dual citizen of Estonia and the

United States but resides in the United States. They have contact with relatives and friends in Estonia. They also know and occasionally see high ranking Estonian government officials, including legislators. Applicant and his wife have done translation work for Estonia government agencies. They also travel to Estonia about once a year, own a condominium in Estonia, and frequently attend events at the Estonia Embassy. These contacts, relationships, activities, and property ownership are a security concern and raise Foreign Influence Disqualifying Conditions (FI DC) AG ¶ 7(a) (contact 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 FI DC AG ¶ 7(b) (connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information); FI DC AG ¶ 8(d) (sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion); and FI DC AG ¶ 8(e) (a substantial business, financial, or property interest in a foreign country, or in a foreign-owned or foreign-operated business which could subject the individual to heightened risk of foreign influence or exploitation). The Government's security concern is based on the strength and depth of Applicant's connections to Estonia and people in the government, and not any heightened risk created by Estonia. (Tr. 163-164)

The mere existence of foreign relationships and contacts is not sufficient to raise the above disqualifying conditions. The nature of Applicant's contacts and relationships must be examined to determine whether it creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion. "Heightened" is a relative term denoting increased risk compared to some normally existing risk that can be inherent anytime there are foreign contacts and relationships. A factor that may heighten the risk in Applicant's case is the extent, degree, and level of his connection to Estonia, its government, its leaders, and its people.

Applicant raised facts to mitigate the security concerns for contacts and relationships with people in Estonia. I have considered Foreign Influence Mitigating Conditions (FI MC) AG ¶ 8(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 U.S.); FI MC AG ¶ 8(b) (There is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest); and FI MC AG ¶ 8(c) (Contact or communication with foreign citizens is so casual or infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation).

The contacts with high level officials in Estonia place a heavy burden on Applicant in mitigating the disqualifying conditions and the security concerns. Applicant's



relationship with his daughter in Estonia is, of course, close and frequent as a relationship between father and daughter. He talks to her frequently and sees her when he visits Estonia. Also of concern is that he knows and does have some contact with high level Estonian officials. However, his contact with these Estonian officials is minimal, casual, and infrequent at best. There is little if any likelihood that these contacts will create a risk of foreign influence or exploitation. Applicant's vacation property in Estonia is valuable, but it is only about ten percent of his total worth. The nature of Estonian and United States' interests and the small value of the property relative to Applicant's total net worth would not place Applicant at a heightened risk of foreign influence or exploitation.

The interests of Estonia and the United States are close since the United States was a proponent of Estonian independence even when Estonia was occupied by the Soviet Union. The United States strongly backed Estonia for membership in NATO and the European Union. Estonia reciprocated for this support by being a strategic partner with the United States participating and supporting the United States and NATO in defense operations in Kosovo, Iraq and Afghanistan. There is no doubt the United States and Estonia are strong allies with close mutual interests. There is a minimal difference between the interests of Estonia and the interests of the United States. There is little likelihood Applicant will be placed in a position to have to choose between the interests of his contacts in Estonia and the interests of the United States.

More important, Applicant has a strong sense of loyalty to the United States. He came to the United States as a refugee and had such a profound sense of obligation for the opportunities he received that he served in the armed forces. His sense of loyalty to Estonia is minimal and is based on culture and heritage and not from a sense of loyalty to Estonia or its government. He can be expected to resolve any conflict of interest in favor of the United States because of this strong sense of loyalty to the United States. It is inconceivable that Applicant will be placed in a position of having to choose between his contacts and interests in Estonia and the interests of the United States. In balancing all of the factors mentioned and considered above, I am satisfied Applicant's loyalty to the United States is such that he can be expected to resolve any conflict of interest in favor of the United States interest. Accordingly, FI MC AG ¶ 8(a), FI MC AG ¶ 8(b), and FI MC AG ¶ 8(c) apply. Applicant has met his heavy burden to show that his contacts and relationships with Estonia do not cause a security concern. I conclude Applicant has mitigated security concerns for contacts with Estonia.

### **Guideline C, Foreign Preference**

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he may be prone to provide information or make decisions that are harmful to the interests of the United States. (AG ¶ 9) The principal goal of the foreign preference assessment is to determine the risk, based on foreign associations, that information may be compromised if access to sensitive information is approved. It is not a measure of Applicant's loyalty to the United States.

Applicant is a dual citizen of Estonia and the United States. He came to the United States as a three-year-old refugee and became a citizen in 1960 as a teenager. He affirmatively applied for Estonian citizenship in 2003, and is considered a citizen of Estonia because of his birth to Estonian parents. He applied for an Estonian passport in 2003 to facilitate his entry and permit and enhance business interests in Estonia. He uses this passport to be employed in Estonia and other European Union countries. He voted in Estonian elections, paid taxes in Estonia, and used his passport and citizenship to obtain property in Estonia. These actions raise Foreign Preference Disqualifying Condition (FP DC) AG ¶ 10(a) (Exercise of any right, privilege, or obligation of foreign citizenship after becoming a United States citizen or through the foreign citizenship of a family member. This includes but is not limited to: (1) possession of a current foreign passport), (5) using foreign citizenship to protect financial or business interest in another country, and (7) voting in a foreign election.

In response to this disqualifying condition, Applicant raised Foreign Preference Mitigating Conditions (FP MC) AG ¶ 11(b) (The individual has expressed a willingness to renounce dual citizenship), and FP MC AG ¶ 11(e) (The passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated). The United States Supreme Court has recognized a right under the United States Constitution for United States citizens to have a dual citizenship with another country. (*Afroyim v. Rusk*, 387 U.S. 253 (1967)). The mere fact that a United States citizen is eligible for dual citizenship with another country is not a security concern. Applicant has not indicated his intent to renounce his dual citizenship with Estonia. His failure to renounce dual citizenship is not a disqualifying condition since the renunciation of a dual citizenship is very often a meaningless gesture because of the citizenship laws of the other nation. The exercise of dual citizenship does create a security concern.

Applicant has exercised his rights as a dual citizen. He applied for foreign citizenship, obtained a foreign passport, purchased a vacation home in a foreign country, and voted in a foreign election before he applied for a security clearance. Applicant has surrendered his passport to the appropriate security authority of his company. His business interests in Estonia are limited to his condominium which he purchased as a vacation home and a place to stay when he visits that country. While he has voted in past Estonian elections, his purpose was to elect candidates favorable to United States' interests. He does not intend to vote in future Estonian elections. As noted under the Guideline B analysis, Applicant has a profound sense of loyalty to the United States and his loyalty to Estonia is based only on culture and heritage. His exercise of any rights and privileges of Estonian citizenship was for business and economic reasons and does not show any conflict between his loyalty to the United States and his loyalty to Estonia. Applicant has, therefore, mitigated security concerns for his exercise of foreign citizenship with Estonia.

### **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 the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 access to sensitive information must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I carefully considered all of the circumstances discussed above in regard to disqualifying and mitigating conditions as well as the following factors in light of the whole person concept. I considered that Applicant is a refugee from communism who came as a youth to the United States and became a citizen. I considered that he received an Air Force commission and served on active duty with a security clearance. I considered that he was granted access to classified information and sensitive information from other government agencies, but was also denied access to sensitive nuclear information by a government agency under the same circumstances presented here.

The whole-person concept requires consideration of all available information about Applicant, not a single item in isolation, to reach a determination concerning Applicant's eligibility for access to sensitive information. Applicant has relationships and contacts with officials in Estonia. His daughter is also a citizen and resident of Estonia. These facts alone might be sufficient to raise security concerns for Applicant's potential vulnerability to coercion, exploitation, or pressure. However, Applicant has established his strong loyalties to the United States. He also established he has no real loyalty to Estonia. Estonia is a strong ally of the United States with mutual interests and concerns. Applicant's strong loyalty to the United States and the relationship between the United States and Estonia counters any contacts and relationships he has with Estonia and people who reside there or are in the government. Overall, on balance, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for access to classified information. Applicant's connections to Estonia do not create a heightened risk related to national security. For all these reasons, I conclude Applicant has met the heavy burden of mitigating all potential security concerns arising from his contacts in Estonia, as well as his exercise of citizenship in Estonia. Applicant has mitigated the security concerns arising from foreign influence and foreign preference, and is granted access to classified information.

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b (1-6):	For Applicant
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraphs 2.a - s:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

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THOMAS M. CREAN  
Administrative Judge