



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



In the matter of:)
)
XXXXXXXXXX, XXXXX) ADP Case No. 11-11537
)
Applicant for Security Clearance)

Appearances

For Government: Melvin A. Howry, Esq., Department Counsel
For Applicant: *Pro se*

01/23/2013

Decision

TUIDER, Robert J., Administrative Judge:

Applicant was born in Bulgaria. In 2009, she became a U.S. citizen. Her parents are citizens and residents of Bulgaria, and she frequently communicates with them. Her spouse is a citizen of Slovakia. She said she might renew her Bulgarian passport. Over the last seven years, she spent a substantial amount of time in Bulgaria. She said she maintained some allegiance to Bulgaria. Although there are also important mitigating factors, they are insufficient to fully mitigate foreign influence and preference concerns. Access to sensitive information is denied.

Statement of the Case

On April 6, 2011, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP). (Item 4) On August 27, 2012, DOD issued a Statement of Reasons (SOR) to her (Item 1), pursuant to Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised; Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program*, dated Jan. 1987, as amended (Regulation); and the adjudicative guidelines (AG) promulgated by the President on December 29, 2005.

The SOR alleges trustworthiness concerns under Guidelines B (foreign influence) and C (foreign preference). (Item 1) The SOR detailed reasons why DOD could not make the preliminary affirmative finding under the Regulation that it is clearly consistent with national security to grant or continue Applicant's eligibility to occupy a public trust position, which entails access to sensitive information. (Item 1) DOD recommended referral to an administrative judge to determine whether such access to sensitive information should be granted, continued, denied, or revoked.

On September 22, 2012, Applicant responded to the SOR allegations and requested a decision without a hearing. (Item 3) A complete copy of the file of relevant material (FORM), dated November 13, 2012, was provided to her on November 21, 2012. She was afforded an opportunity to file objections and to submit material in refutation, extenuation, or mitigation.¹ On December 26, 2012, DOHA received Applicant's response to the FORM. Department Counsel did not object to my consideration of the FORM response. The case was assigned to me on January 4, 2013.

Procedural Ruling

Department Counsel did not request administrative notice of facts concerning Bulgaria or Slovenia. Applicant requested admission of certain facts concerning Bulgaria. (FORM response) Department Counsel did not object, and I have taken Administrative notice of the facts concerning Bulgaria, as indicated under the caption Bulgaria in the Findings of Fact of this decision, *infra*.

Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 05-11292 at 4 n.1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n.4 (3d Cir. 1986)). Usually administrative notice in ADP proceedings is accorded to facts that are either well known or from government reports. See Stein, *Administrative Law*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice).

Findings of Fact²

Applicant admitted the underlying facts alleged in SOR ¶¶ 1.a, 1.b, 2.a, 2.c, and 2.d with explanations. (Item 3) She denied the allegation in SOR ¶ 2.b. (Item 3) After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

¹The DOHA transmittal letter is dated November 13, 2012, and Applicant's receipt is dated November 21, 2012. The DOHA transmittal letter informed Applicant that she had 30 days after her receipt to submit information.

²To protect Applicant's privacy, the facts in this decision do not specifically describe employment, names of witnesses or locations. The cited sources contain more specific information.

Applicant is a 33-year-old associate applications director, who is an employee of a defense contractor.³ She was born in Bulgaria in 1979. In 2004, she earned a master of arts degree in economics from a U.S. university. In 2009, she married. She has never served in the U.S. military.

Foreign Influence

Applicant's father and mother are citizens and residents of Bulgaria. (SOR ¶ 1.a; Items 3, 6) She communicates with her father and mother on a weekly basis. (Item 5) Her father and mother are not affiliated with the Bulgarian Government. (Item 5)

Applicant's spouse is a citizen of the Slovak Republic. (SOR ¶ 1.b; Items 3, 6) He is a permanent resident of the United States, who has lived in the United States for 14 years. (Item 3) Applicant lives with her spouse. (Item 5) He intends to apply for U.S. citizenship as soon as he is eligible to do so. (Item 3) She believes he will become a U.S. citizen in 2013. (FORM response) He is self-employed as a consultant. (Item 5)

From October 2004 to February 2005, June to July 2006, March to June 2008, August to September 2008, and July to September 2010, Applicant visited Bulgaria. (Item 4) In 2004, 2005, June 2008, and June 2010, she visited Slovakia. (Item 4) She visited her parents when she went to Bulgaria.

In April 2009, Applicant became a U.S. citizen. (Item 5; FORM response) Her three-year-old daughter was born in the United States and lives with Applicant and her husband. (Items 3, 5) Applicant emphasized that Bulgaria is an ally of the United States and a responsible member of the international and European community. (Item 3; FORM response)

Foreign Preference

Applicant has dual citizenship with Bulgaria and the United States. (SOR ¶ 2.a; Items 3, 5, 6) She traveled to Bulgaria using her Bulgarian passport in 2004, 2005, 2006, and 2008. (Item 5) Applicant's Bulgarian passport expired and she could not find it. (SOR ¶ 2.b; FORM response) However, she said, "I might renew it in the future." (Item 3) In 2009, she obtained a U.S. passport. (Item 4)

In her August 3, 2011 Office of Personnel Management (OPM) personal subject interview (PSI), Applicant said she had a "small allegiance" to the country of Bulgaria. (SOR ¶ 2.c; Items 3, 5, 6) She explained:

I do admit to small allegiance to the country of Bulgaria because that is where I grew up and where my family is but I want to re-assert that I give priority to the USA and that Bulgaria is an ally of the USA. . . I give my US citizenship a priority. I have sworn to have a primary allegiance with the USA and that is important to me. (Item 3)

³The source for the information in this paragraph is Applicant's April 6, 2011 e-QIP. (Item 4)

Applicant voted in a Bulgarian parliamentary election in 2005 before she became a U.S. citizen. (SOR ¶ 2.d; Items 3, 5, 6) She did not serve in the Bulgarian military. (Item 5) She is registered to vote in the United States, and she intends to vote in U.S. elections. (Item 3) She is willing to renounce her Bulgarian citizenship if required to do so for work. (Item 5)

There is no derogatory information concerning Applicant's police or financial records. There is no evidence of record showing any U.S. arrests, illegal drug possession or use, or alcohol-related incidents. She did not provide any evidence from character witnesses about her dedication, diligence, trustworthiness, or responsibility. She is loyal to the United States and she considers the United States to be her home.

Bulgaria⁴

Bulgaria has generally good foreign relations with its neighbors. In 2004, Bulgaria became a member of the North Atlantic Treaty Organization (NATO). In 2007, Bulgaria became a member of the European Union. Bulgaria, the United Kingdom, and Spain were primary allies of the United States in the war in Iraq. Bulgaria has hosted several important international conferences in the last ten years. The United States and Bulgaria established joint military facilities in Bulgaria after April 2006. U.S. forces train at these facilities, which remain under Bulgarian command.

Policies

Positions designated as ADP I and ADP II are classified as "sensitive positions." Regulation ¶¶ C3.1.2.1.1.7 and C3.1.2.1.2.3. "The standard that must be met for . . . assignment to sensitive duties is that, based on all available information, the person's loyalty, reliability, and trustworthiness are such that . . . assigning the person to sensitive duties is clearly consistent with the interests of national security." Regulation ¶ C6.1.1.1. Department of Defense contractor personnel are afforded the right to the procedures contained in the Directive before any final unfavorable access determination may be made. See Regulation ¶ C8.2.1.

When evaluating an applicant's suitability for a public trust position, an administrative judge must consider the disqualifying and mitigating conditions in the AG. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

A person who seeks access to sensitive 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

⁴The source for the information in this section is Applicant's FORM response.

sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of sensitive information.

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the applicant which may disqualify the applicant from being eligible for access to sensitive information. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security and trustworthiness suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. The burden of disproving a mitigating condition never shifts to the government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance [or trustworthiness] determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b). The protection of the national security and sensitive records is of paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to [sensitive] information will be resolved in favor of national security.”

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

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 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 considerations 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 ¶ 7 indicates three conditions that could raise a trustworthiness concern and may be disqualifying in this case:

(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;

(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; and

(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.

Applicant has a close relationship with her parents who are citizens and residents of Bulgaria. Applicant's communications with her parents are frequent. She was born in Bulgaria, and she traveled to Bulgaria from October 2004 to February 2005, June to July 2006, March to June 2008, August to September 2008, and July to September 2010. Her husband is a citizen of Slovakia, and in 2004, 2005, June 2008, and June 2010, she visited Slovakia.

There is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. *See generally* ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at *8 (App. Bd. Feb. 20, 2002). Applicant has not rebutted this presumption. Applicant's relationships with her parents living in Bulgaria are sufficient to create "a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion." Her relationship with her parents creates a concern about Applicant's "obligation to protect sensitive information or technology" and her desire to help her parents who are in Bulgaria. For example, if the Bulgaria Government or terrorists in Bulgaria wanted to expose Applicant to coercion, it could exert pressure on her parents. Applicant would then be subject to indirect coercion through her relationship with her parents and sensitive information could potentially be compromised. Similarly, Applicant has a close relationship with her spouse, who is a citizen of Slovakia, and a permanent resident of the United States. There is no evidence about his familial or other relationships with citizens and residents of Slovakia.

The mere possession of close family ties with a family member living in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if an applicant has a close relationship with even one relative living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of sensitive or classified information. *See Generally* ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

The nature of a nation's government, its relationship with the United States, and its human-rights record are relevant in assessing the likelihood that an applicant's family members are vulnerable to government or terrorist coercion or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the

government, the country is known to conduct intelligence collection operations against the United States or terrorist activity causes widespread fear or destruction. The relationship of Bulgaria with the United States, the absence of evidence of terrorist activity in Bulgaria, and the absence of evidence that her parents are associated with the Bulgarian Government places a reduced or lesser burden of persuasion on Applicant to demonstrate that her relationships with her parents living in Bulgaria does not pose a security risk.

Guideline B is not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding sensitive or 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). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002).

While there is no evidence that intelligence operatives or terrorists in Bulgaria or Slovakia seek or have sought classified, sensitive, or economic information from or through Applicant, her spouse, or her parents living in Bulgaria, it is not possible to rule out such a possibility in the future. Applicant’s communications with her parents living in Bulgaria are frequent, and she continues to feel an obligation and affection for her parents and spouse. Applicant’s concern for her parents and spouse is a positive character trait that increases her trustworthiness; however, it also increases the concern about potential foreign influence. Department Counsel produced substantial evidence and raised the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a), 7(b), and 7(d) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

(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.;

(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;

(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;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

AG ¶¶ 8(a), 8(b), 8(c), and 8(f) have limited applicability. Applicant was born in Bulgaria, and she traveled to Bulgaria from October 2004 to February 2005, June to July 2006, March to June 2008, August to September 2008, and July to September 2010. Her husband is a citizen of Slovakia, and in 2004, 2005, June 2008, and June 2010, she visited Slovakia. Applicant has frequent contacts with her parents in Bulgaria and husband, who is a citizen of Slovakia and a permanent resident of the United States. The amount of contacts between an applicant and relatives living in a foreign country are not the only test for determining whether someone could be coerced or improperly influenced through their relatives. Because of her connections to her parents, Applicant is not able to fully meet her burden of showing there is “little likelihood that [her relationships with her parents, who is living in Bulgaria and her husband, who lives with her] could create a risk for foreign influence or exploitation.” It is evident that Applicant is close to her parents and her husband.

Applicant has “deep and longstanding relationships and loyalties in the U.S.” She has strong family connections to the United States. Her spouse and daughter are either U.S. citizens or live in the United States or both. The extent of Applicant’s property interests in the United States is unknown.

Applicant’s relationship with the United States must be weighed against the potential conflict of interest created by her relationship with her parents, who live in Bulgaria, and her relationship with husband, who is a citizen of Slovakia. There is no evidence that terrorists, criminals, the Bulgaria Government, the Slovakian Government, or those conducting espionage have approached or threatened Applicant, her husband, any family her husband may have in Slovakia, or her family in Bulgaria to coerce Applicant to obtain classified or sensitive information. While the Government does not have any burden to prove the presence of such evidence, if such record evidence was present, Applicant would have a heavy evidentiary burden to overcome to mitigate foreign influence security concerns. It is important to be mindful of the United States’ recent relationship with Bulgaria, and especially Bulgaria’s NATO membership, support of the U.S. combat mission in Iraq, and joint U.S. and Bulgarian facilities.

AG ¶¶ 8(d), 8(e), and 8(f) do not apply. The U.S. Government has not encouraged Applicant's involvement with her parents living in Bulgaria or her relationship with her husband. Applicant is not required to report her contacts with foreign citizens, as she does not have a security clearance. AG ¶ 8(f) does not apply because there is no allegation that she or her husband own property or have financial investments in Bulgaria or Slovakia.

In sum, the primary security concerns are Applicant's parents living in Bulgaria, her husband's foreign citizenship, her frequent contacts with her parents, and her extensive travel to Bulgaria. Her parents are readily available for coercion or improper influence. The Bulgarian Government's positive relationship with the U.S. Government decreases the risk of coercion. Still, her connections to Bulgaria continue to raise foreign influence concerns, and Applicant is not eligible for a public trust position at this time.

Foreign Preference

AG ¶ 9 describes the foreign preference security concern stating, "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 interests of the United States."

AG ¶ 10 describes conditions that could raise a security concern and may be disqualifying in Applicant's case:

(a) exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to:

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial or business interests in another country;
- (6) seeking or holding political office in a foreign country; and
- (7) voting in a foreign election;

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

(c) performing or attempting to perform duties, or otherwise acting, so as to serve the interests of a foreign person, group, organization, or government in conflict with the national security interest; and

(d) any statement or action that shows allegiance to a country other than the United States: for example, declaration of intent to renounce United States citizenship; renunciation of United States citizenship.

Applicant has dual citizenship with Bulgaria and the United States. (SOR ¶ 2.a) She has continued to maintain her citizenship with Bulgaria and might renew her Bulgarian passport in the future.

Applicant traveled to Bulgaria using her Bulgarian passport in 2004, 2005, 2006, and 2008; however, she did not use her Bulgarian passport after she became a U.S. citizen. She cannot find her Bulgarian passport, and SOR ¶ 2.b is refuted as a security concern.

In her August 3, 2011 OPM PSI, Applicant said she had a “small allegiance” to the country of Bulgaria. (SOR ¶ 2.c) Applicant said:

I do admit to small allegiance to the country of Bulgaria because that is where I grew up and where my family is but I want to re-assert that I give priority to the USA and that Bulgaria is an ally of the USA. . . I give my US citizenship a priority. I have sworn to have a primary allegiance with the USA and that is important to me. (Item 3)

Applicant voted in a Bulgarian election in 2005; however, she has not voted in a Bulgarian election after she became a U.S. citizen in 2009. SOR ¶ 2.d is refuted as a security concern.

AG ¶ 10(d) applies, and SOR ¶¶ 2.a and 2.c considered together raise a foreign preference concern.

AG ¶ 11 provides conditions that could mitigate security concerns:

(a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;

(b) the individual has expressed a willingness to renounce dual citizenship;

(c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor;

(d) use of a foreign passport is approved by the cognizant security authority;

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated; and

(f) the vote in a foreign election was encouraged by the United States Government.

Applicant's statement about having some "allegiance and loyalty" to Bulgaria was primarily an expression of sympathy or empathy towards her Bulgarian heritage and to a lesser extent was not an expression of loyalty or allegiance to the Bulgaria. She offered to renounce her Bulgarian citizenship if required to do so for work; however, she did not do so. Her suggestion that she might renew her Bulgarian passport is problematic. Foreign preference concerns are not fully mitigated.

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 relevant 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 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 Guidelines B and C in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under these guidelines, but some warrant additional comment.

There are some facts supporting mitigation of security concerns. Applicant has strong connections to the United States. She earned her master's degree in the United States. In 2009, she became a U.S. citizen. She swore an oath of allegiance to the United States. She said she is willing to renounce her Bulgarian citizenship if necessary to retain her employment. Her spouse and daughter live in the United States. There is no derogatory information concerning Applicant's police or financial records, U.S. arrests, illegal drug possession or use, or alcohol-related incidents. She is loyal to the United States and considers the United States to be her home.

A Guideline B decision must take into consideration the geopolitical situation in the pertinent foreign country, as well as the dangers existing in that country.⁵ The dangers of coercion and improper influences from terrorists and criminals must be considered. There is no evidence that the activities of terrorists or criminals present a security concern in Bulgaria and Slovakia. Bulgaria and the United States are allied militarily, diplomatically, and through trade. This positive relationship reduces the possibility of improper attempts to influence Applicant through her parents living in Bulgaria.

The circumstances tending to support denial of Applicant's clearance are more significant than the factors weighing towards approval of her clearance at this time. Applicant had frequent contact with her parents living in Bulgaria and her husband, who lives with her and is a citizen of Slovakia. She was born in Bulgaria, and she traveled to Bulgaria from October 2004 to February 2005, June to July 2006, March to June 2008, August to September 2008, and July to September 2010. Her husband is a citizen of Slovakia, and in 2004, 2005, June 2008, and June 2010, she visited Slovakia. She said she might renew her Bulgarian passport, and she said she has some allegiance to Bulgaria.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), the Directive, and the AGs, to the facts and circumstances in the context of the whole-person. I conclude Applicant has not fully mitigated the foreign influence and foreign preference trustworthiness 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:	Against Applicant
Subparagraph 1.b:	For Applicant
Paragraph 2, Guideline C:	Against APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant

⁵ See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole person discussion).

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national security to grant Applicant eligibility for a public trust position. Eligibility for access to sensitive information is denied.

Robert J. Tuidor
Administrative Judge