



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 15-04484
)	
Applicant for Security Clearance)	

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: Eric A. Eisen, Esq.

04/06/2017

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines B (Foreign Influence) and C (Foreign Preference). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on September 9, 2014. On March 24, 2016, the Department of Defense Consolidated Adjudications Facility (DOD CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines B and C. The DOD CAF acted under Executive Order (Exec. Or.) 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) implemented by the DOD on September 1, 2006. The adjudicative guidelines are codified in 32 C.F.R. § 154, Appendix H (2006), and they replaced the guidelines in Enclosure 2 to the Directive.

Applicant answered the SOR on April 12, 2016, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on May 25, 2016,

and the case was assigned to an administrative judge on August 18, 2016. It was reassigned to me on December 14, 2016, due to workload. On December 16, 2016, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled for January 11, 2017. I convened the hearing as scheduled. Government Exhibits (GX) 1 and 2 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through N, which were admitted without objection. I kept the record open until January 20, 2016, to enable him to submit additional documentary evidence. He did not submit any additional evidence. DOHA received the transcript (Tr.) on January 19, 2017.

Administrative Notice

Department Counsel requested that I take administrative notice of relevant facts about Turkey. I took administrative notice as requested by Department Counsel. The request to take administrative notice and supporting documentation are attached to the record as Hearing Exhibit (HX) II.¹ On my own motion and without objection by either party, I took administrative notice of updated versions of Administrative Notice Documents I and II, which were attached to the Department Counsel's request to take administrative notice. The updated documents are attached to the record as HX III and IV. The comments of counsel for both sides are attached as HX V. The facts administratively noticed are set out below in my findings of fact.

Findings of Fact²

In his answer to the SOR, Applicant admitted the allegations in SOR ¶¶ 1.a-1.h, 2.a and 2.b. He denied SOR ¶ 1.i. His admissions in his answer and at the hearing are incorporated in my findings of fact.

Applicant is a 43-year-old electrical engineer employed by defense contractors since November 2003. He has worked for his current employer since January 2015. (Tr. 58.) He has never held a security clearance.

Applicant was born in Turkey, and he obtained a bachelor's degree from a Turkish technical university in June 1995. He came to the United States on a student visa in September 1995. (G 2 at 1.) He supported himself with a fellowship and a position as a teaching assistant. (Tr. 27.) He obtained a doctorate in electrical engineering from a U.S. university in June 2002. He became a U.S. citizen in July 2002.

Applicant met his wife, then a Turkish citizen, while they both were graduate students in the United States. They were married in the United States in July 1997 and had a marriage celebration for their families in Turkey in September 1998. (GX 2 at 4; Tr.

¹ Hearing Exhibit I is the letter from Department Counsel transmitting copies of its intended exhibits to Applicant, as required by Directive ¶ E3.1.13.

² Applicant's personal information is extracted from his security clearance application (GX 1) unless otherwise indicated by a parenthetical citation to the record.

29.) His wife received her doctorate in economics in 2002. She became a U.S. citizen in July 2012. (GX 2 at 7.) They have two children, ages 11 and 8, who are native-born U.S. citizens. They also are Turkish citizens based on the dual citizenship of their parents.

Applicant's mother is a citizen and resident of Turkey. His father passed away more than 30 years ago. Applicant's mother has never worked outside the home. Applicant talks to his mother by telephone at least once a week. (Tr. 63.) His mother has visited him in the United States three times since the children were born. (Tr. 34.) During the years he has lived in the United States, he has sent his mother a total of about \$20,000 to help her support herself. (Tr. 45, 65-66.)

Applicant's three siblings are citizens and residents of Turkey, and live in Ankara, the capital city. His sister and her husband are employed by the Turkish government as non-supervisory engineers, and he talks to his sister two or three times a year. (Tr. 54-55, 70.) His sister's son, who is in the 11th grade, visited Applicant and his wife for an entire summer, attended summer school at a local YMCA, and intends to apply for admission to a U.S. university. (Tr. 35.)

Applicant's older brother is a professor of sociology employed by a government-run university in Turkey. His older brother's wife works in the business office of a private hospital. Applicant testified that he is not close to his older brother, and at least six months had elapsed since they last talked. (Tr. 34-35, 68.)

Applicant's younger brother is a cardiologist employed by a government hospital in Turkey. Applicant is close to his younger brother and talks to him frequently. His younger brother's wife is an assistant professor at a Turkish university. (Tr. 36.) They and their two children lived in the United States for nine months as visiting scholars and are exploring the possibility of applying for permanent positions in the United States. (Tr. 36-37.)

Applicant's mother-in-law and father-in-law are citizens and residents of Turkey. They own and operate a winery in southwestern Turkey, but they are in their 60s and intend to retire soon. (Tr. 38-39, 79-80.)

Applicant's sister-in-law is a citizen of Turkey, a permanent resident of the United States, and married to a U.S. citizen. At the time of the hearing, she had applied for U.S. citizenship and was awaiting her interview. She and her husband have two children who are native-born U.S. citizens. (Tr. 39.)

Until recently, Applicant traveled annually to Turkey to visit his family, because the children of his siblings wanted to see his children. (Tr. 42-43.) He used a Turkish passport for convenience when he visited his family in Turkey in 2001, 2004, 2005, and 2006. He did not use the Turkish passport for travel to any other countries. After 2006, he used his U.S. passport for travel to Turkey. (Tr. 40-42.) His Turkish passport expired in December 2008. He did not renew it and does not intend to renew it. Now that his sons are older and less interested in visiting Turkey, he has no plans for future travel to Turkey. Instead,

they have vacationed in the United States in national and state parks, amusement parks and the beach. (Tr. 43-44.)

Applicant purchased an apartment in Ankara, Turkey in March 2014, with an estimated value of about \$205,000. He purchased the apartment so that his mother could have an apartment with amenities such as an elevator, Internet access, and nearby shopping areas. Her current apartment lacks amenities, and it is a considerable distance from Ankara, where Applicant's siblings live. In his SCA and during a personal subject interview (PSI) in October 2014, he stated he intended to use the apartment when he visits his family in Turkey. (GX 2 at 5.) At the hearing, he testified that he will sell the apartment when his mother passes away. As of the date of the hearing, the construction of the apartment was not completed and his mother had not moved into it. (Tr. 45-46, 75.)

Applicant and his wife opened a bank account in Turkey that had an estimated balance of about \$63,000 when he submitted his SCA. They opened the account to diversify their investments. (GX 2 at 5.) They closed the account and transferred the funds to a U.S. bank in March 2016. (AX I; Tr. 48.)

Applicant voted in Turkish elections in 2014 and 2015. He told a security investigator that he voted to support democracy in Turkey. (GX 2 at 6; Tr. 59.) At the hearing, he testified that he voted both times because the candidate for prime minister was threatening Turkey's democracy and was not the best choice for the interests of the United States. Based on his attorney's advice, he does not intend to vote in a Turkish election again. He has voted in all state and federal elections in the United States since he became a U.S. citizen. (Tr. 54-55.)

In the October 2014 PSI, Applicant told the security investigator that he was willing to renounce his Turkish citizenship if it was required. (GX 2 at 2.) After Applicant received the SOR, his attorney advised him against renouncing his Turkish citizenship because it he would call attention to himself among Turkish officials by doing so. (Tr. 90-91.)

As of December 2016, Applicant's total assets in the United States were worth about \$1,949,903. (AX A.) His wife works for an investment firm. (Tr. 33.) For tax year 2015, he and his wife reported income of about \$557,078 on their federal income tax return. (AX B.)

Applicant's neighbor, a native of Turkey and a naturalized citizen of the United States since 2000, submitted a statement supporting Applicant's application for a security clearance. He stated that Applicant often expresses gratitude for the opportunities he has enjoyed in the United States and strongly believes in U.S. democratic values. He considers Applicant an honest man who is committed to his family, his work, and his country. (AX J.)

Applicant's co-worker for the past two years considers him trustworthy, responsible, and a strong believer in American democracy. (AX K.) Two former colleagues who have known Applicant for many years describe him as a responsible

citizen who is happy to be in the United States, has assimilated well into the American community, and strongly embraces the values of the United States. (AX L; AX M.) Applicant's former manager and direct supervisor regards him as dependable, trustworthy, a devoted parent, and a person of good character. (AX N.)

Turkey is a constitutional republic with a multiparty parliamentary system, a president, and a unicameral legislature. The relationship between the United States and Turkey is based on mutual interests and respect and is focused on areas such as regional security and stability as well as economic cooperation. U.S. security assistance to Turkey seeks to maximize Turkish cooperation with other countries and enhance the interoperability of Turkish military forces with other NATO forces. Turkey has been a NATO ally of the United States since 1952 and is an important security partner for the United States. Turkey is a vital member of the Counter-ISIL Coalition and has opened its military bases to the United States and Coalition partners to support the effort to degrade and ultimately destroy ISIL in Syria and Iraq. The United States condemned the July 2016 coup attempt in Turkey and continues to support Turkey's democratically elected government and its democratic institutions.

Turkey is of strategic significance because it controls the strait linking the Black Sea and the Mediterranean, and it borders Iran, Iraq, and Syria. By virtue of Turkey's location, its international transportation hubs, and its long borders with Syria and Iraq, Turkey is a main transit route for foreign terrorists.

Recent terrorist attacks in Turkey from both transnational and indigenous groups and the movements of terrorist groups across Turkey's southern border with Syria to and from Syria and Iraq have caused the U.S. State Department to warn U.S. tourists about attacks where U.S. citizens and westerners are known to live, congregate, shop, or visit. In 2016, there were numerous attacks involving shootings, suicide bombings, and vehicle-born bombings in tourist areas, public spaces, private celebrations, sporting events, and government and military facilities that resulted in hundreds of deaths. In October 2016, the U.S. Department of State directed family members of U.S. State Department employees in the Istanbul area to temporarily depart from Turkey. It allowed them to return in March 2017. U.S. government personnel living in or visiting Turkey are required to obtain approval from the U.S. Embassy before traveling to the southeastern provinces, where the threat of terrorism is the greatest.

Turkey is currently under a state of emergency. Security forces have expanded powers and the government has, at times, restricted Internet access and media content. U.S. citizens have been deported or detained and sometimes denied consular access. Denial of consular access has become more common for U.S.-Turkish dual citizens.

Significant human rights issues in Turkey include government interference with freedom of expression, impunity of government officials, weak administration of justice, abuses of religious freedom, and mistreatment of refugees through physical abuse or lack of access to basic needs. As a result of increased terrorist activity, security forces have

applied anti-terrorist laws inconsistently, made arbitrary arrests, and have been accused of attempting to intimidate the judicial branch of the government.

The United States and Turkey are major trading partners. The United States exports aircraft, iron and steel, agricultural goods, oil, cotton yarn and fabric, and machinery to Turkey, and it imports vehicles, machinery, iron and steel products, agricultural products, travertine, and marble.

Turkey contributes to international security alongside U.S. forces in Afghanistan, the seas off Somalia, and in the Mediterranean. Although there is considerable economic and military interaction between the United States and Turkey, the administrative notice materials submitted by Department Counsel do not indicate that Turkey targets the United States for military or economic intelligence.

Policies

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information.” *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines 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 and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication 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 establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. 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 suitability. See ISCR Case No. 92-1106 at 3, 1993 WL 545051 at *3 (App. Bd. Oct. 7, 1993).

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. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Guideline B, Foreign Influence

The SOR alleges that Applicant’s mother, brother, sister, father-in-law, and mother-in-law are citizens and residents of Turkey (SOR ¶ 1.a); his sister is employed by the Turkish government (SOR ¶ 1.b); one of his brothers is employed by a government-run university (SOR ¶ 1.c); one of his brothers is employed by a hospital in Turkey (SOR ¶ 1.d); his spouse and children are dual U.S.-Turkey citizens residing in the United States (SOR ¶ 1.e); he has traveled to Turkey annually since 2007 (SOR ¶ 1.f); he owns real estate in Turkey purchased in 2014 and worth about \$205,000 (SOR ¶ 1.g); he has a bank account in Turkey with a balance of about \$63,000 (SOR ¶ 1.h); and he sends about \$20,000 annually to his mother (SOR ¶ 1.i). The security concern under this guideline is set out in AG ¶ 6 as follows:

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.

Applicant admitted all the allegations under this guideline except SOR ¶ 1.i. The evidence reflects that Applicant's travel to Turkey, alleged in SOR ¶ 1.h, was to visit his family. As such, his foreign travel has no independent security significance. See ISCR Case No. 02-26978 (App. Bd. Sep 21, 2005). Similarly, his financial support to his mother alleged in SOR ¶ 1.i has no independent security significance. The evidence shows that the balance of the foreign bank account alleged in SOR ¶ 1.h has been reduced to zero and amount of financial support alleged is SOR ¶ 1.i is not supported by the evidence. However, Applicant's admissions in his answer to the SOR and at the hearing are sufficient to establish SOR ¶¶ 1.a-1.e and 1.g.

Four disqualifying conditions under this guideline are relevant to this case:

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;

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;

AG ¶ 7(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

AG ¶ 7(e): a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.

AG ¶¶ 7(a), (d), and (e) all require substantial evidence of a "heightened risk." The "heightened risk" required to raise one of these disqualifying conditions is a relatively low standard. "Heightened risk" denotes a risk greater than the normal risk inherent in having a family member living under a foreign government.

The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). All of Applicant's immediate family members and his wife's parents are citizens and residents of Turkey. Applicant has not overcome the "rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at * 8 (App. Bd. Feb. 20, 2002); *see also* ISCR Case No. 09-06457 at 4 (App. Bd. May 16, 2011). Turkey is a friend and ally of the United States, and there is no indication that the Turkish government mistreats its own citizens to obtain military or economic intelligence about the United States. However, the activities of radical and insurgent groups in Turkey are sufficient to

raise the “heightened risk” in AG ¶¶ 7(a), (d), and (e) and the potential conflict of interest in AG ¶ 7(b).

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).

Furthermore, “even friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security.” ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. Nevertheless, 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 coercion. 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, or the country is known to conduct intelligence operations against the United States. In considering the nature of the government, an administrative judge must also consider any terrorist activity in the country at issue. See *generally* ISCR Case No. 02-26130 at 3 (App. Bd. Dec. 7, 2006) (reversing decision to grant clearance where administrative judge did not consider terrorist activity in area where family members resided).

The following mitigating conditions under this guideline are potentially relevant:

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;

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;

AG ¶ 8(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; and

AG ¶ 8(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) is not established. Applicant's immediate family members live in Ankara, and his wife's parents live in southwestern Turkey, away from the most dangerous provinces in Turkey. However, the presence of Applicant's immediate family members and his wife's parents in Turkey during the current period of insurgent and terrorist activity precludes application of this mitigating condition.

AG ¶ 8(b) is established. Applicant has lived in the United States for 32 years and has been a U.S. citizen for almost 15 years. His wife and children are U.S. citizens. His professional career, his wife's professional career, and their considerable wealth are closely tied to the economy and politics of the United States. His wife's sister is married to a U.S. citizen, resides in the United States, and is seeking U.S. citizenship. In the October 2014 PSI, Applicant expressed willingness to renounce his Turkish citizenship if necessary. He has encouraged his younger brother to bring his family to the United States. He withdrew all the funds from his Turkish bank account and deposited it in his U.S. account. He is regarded by his neighbors, co-workers, and supervisors as devoted to the values of the United States.

AG ¶ 8(c) is not established. Applicant has regular contact with his mother and less frequent contact with his siblings, but he has not rebutted the presumption that contacts with an immediate family member in a foreign country are not casual. ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002).

AG ¶ 8(d) is not established. The value of Appellant's Turkish property constitutes only a small percentage of his net worth, but it is sufficient to result in a conflict of interest. However, as noted above, I am confident that Appellant will resolve any conflict of interest in favor of the United States.

Guideline C, Foreign Preference

The SOR alleges that Applicant exercised his Turkish citizenship while a citizen of the United States by voting in Turkish elections in 2014 (SOR ¶ 2.a); and he exercised his Turkish citizenship while a citizen of the United States by using his Turkish passport for international travel between August 2004 and December 2008 (SOR ¶ 2.b). The concern under this guideline is set out in AG ¶ 9: "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."

Dual citizenship standing alone is not sufficient to warrant an adverse security clearance decision. ISCR Case No. 99-0454 at 5, 2000 WL 1805219 (App. Bd. Oct. 17, 2000). Under Guideline C, "the issue is not whether an applicant is a dual national, but rather whether an applicant shows a preference for a foreign country through actions." ISCR Case No. 98-0252 at 5 (App. Bd. Sep. 15, 1999).

The disqualifying condition in AG ¶ 10(a) may arise from “exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen,” including but not limited to “(1) possession of a current foreign passport” and “(7) voting in a foreign election.” Applicant’s possession and use of a Turkish passport and voting in Turkish elections establishes AG ¶ 10(a).

The security concern under this guideline is not limited to countries hostile to the U.S. “Under the facts of a given case, an applicant’s preference, explicit or implied, even for a nation with which the U.S. has enjoyed long and peaceful relations, might pose a challenge to U.S. interests.” ADP Case No. 07-14939 at 4 (App. Bd. Mar. 11, 2009).

The following mitigating conditions are potentially relevant:

AG ¶ 11(b): the individual has expressed a willingness to renounce dual citizenship; and

AG ¶ 11(e): the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

AG ¶ 11(b) is established. In the October 2014 PSI, Applicant expressed his willingness to renounce his Turkish citizenship if necessary. His attorney advised him against renouncing his citizenship, on the ground that he might call unwanted attention to himself.

AG ¶ 11(e) is established. Applicant’s passport has expired, and he does not intend to renew it. He has used his U.S. passport for travel since 2006.

There are no specific mitigating conditions that apply to Applicant’s voting in a foreign election. However, I have noted that Applicant has voted in every state and federal election in the United States since he became a citizen. He voted in the Turkish election because he believed election of one of the candidates for prime minister was not in the best interests of the United States. Finally, Applicant had no experience with the security clearance process when he voted in the Turkish election and he was unaware of the security implications of doing so. Upon being advised by his attorney of those implications, he testified that he will not vote in a foreign election again.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

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 those guidelines, but some warrant additional comment.

Applicant was candid, sincere, and credible at the hearing. He is a talented engineer, a devoted father and husband, and a loyal citizen of the United States. Although he has worked for defense contractors for many years, he was unfamiliar with the security clearance process and did not realize the security implications of his actions until he submitted his SCA in September 2014 and was interviewed during the PSI shortly thereafter. He obtained the advice of an attorney experienced in national security law and he has followed his attorney's advice.

After weighing the disqualifying and mitigating conditions under Guidelines B and C, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his foreign family connections and his exercise of foreign citizenship. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline B (Foreign Influence):	FOR APPLICANT
Subparagraphs 1.a-1.i:	For Applicant
Paragraph 2, Guideline C (Foreign Preference):	FOR APPLICANT
Subparagraphs 2.a-2.b:	For Applicant

Conclusion

I conclude that it is clearly consistent with the national interest to grant Applicant eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge