



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 15-06234

**Appearances**

For Government: Benjamin R. Dorsey, Esq., Department Counsel  
For Applicant: *Pro se*

05/31/2017

**Decision**

HARVEY, Mark, Administrative Judge:

Applicant surrendered her Turkish passport to her security manager, and foreign preference security concerns are mitigated. Applicant's sister moved from Turkey to the United States, and foreign influence security concerns related to Turkey are mitigated. Applicant's spouse's parents are citizens and residents of Syria. Foreign influence concerns relating to Syria are not mitigated. Access to classified information is denied.

**Statement of the Case**

On October 22, 2014, Applicant completed and signed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Item 3) On January 17, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued an SOR to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), which became effective on September 1, 2006.

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for her, and recommended referral to an administrative judge to determine whether a

clearance should be granted, continued, denied, or revoked. (Item 1) Specifically, the SOR set forth security concerns arising under the foreign preference and foreign influence guidelines.

On February 4, 2016, Applicant provided a response to the SOR, and she requested a decision without a hearing. (Item 2) On June 29, 2016, Department Counsel completed the File of Relevant Material (FORM). On August 22, 2016, Applicant responded to the FORM. On May 22, 2017, the case was assigned to me. The case file, consisting of six Government exhibits, was admitted without objection. (Items 1-6) Department Counsel did not object to Applicant's response to the FORM.

### **Procedural Rulings**

Department Counsel requested administrative notice of facts concerning Turkey and Syria (AN). (Items 5, 6) There were no objections, and I granted the AN request. Department Counsel's requests for AN are quoted without introduction, some quotation marks, and footnotes in the sections labeled, "Republic of Turkey," and "Syria," *infra*. The "bullets" were also removed, and instead paragraph format was used. A few minor grammatical corrections were made.

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 at ISCR 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 Fact<sup>1</sup>**

In her SOR response, Applicant admitted the allegations in SOR ¶¶ 1.a and 2.b. (Item 2) Applicant's admissions are accepted as findings of fact. She also provided extenuating and mitigating information. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant is a 37-year-old senior specialist, who has worked for the same DOD contractor since 2008. In 1980, she was born in Turkey. In 1995, she immigrated to the United States, and in 2001, she was naturalized as a U.S. citizen. In 2000, she graduated from high school in the United States. (Item 4) In 2004, she received an associate's degree in software development from a U.S. college. In 2005, she married

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<sup>1</sup>The facts in this decision do not specifically describe employment, names of witnesses, or locations in order to protect Applicant and her family's privacy. Unless stated otherwise, the sources for the information in this section are Applicant's SOR response (Item 2), her October 22, 2014 Questionnaire for National Security Positions (SF 86) or security clearance application (SCA) (Item 3), or her FORM response.

in Turkey. Her spouse was born in Syria. In 2011, her child was born in the United States. Her daughter and husband are citizens and residents of the United States.

In 2011, Applicant was issued a Turkish passport, and she used it to travel to Turkey in 2014 to avoid compliance with Turkish visa requirements for dual citizens traveling on a U.S. passport. When she had her interview with an Office of Personnel Management (OPM) investigator, she offered to turn in her Turkish passport to her security manager. (Item 4) On August 22, 2016, Applicant's security manager wrote that Applicant provided her Turkish passport to him, and he had retained it.

Applicant's parents, brother, and sister were born in Turkey, and they live in the United States. In 2014, she obtained a U.S. passport. She traveled to Turkey in 2011 and 2014. Her mother is a naturalized U.S. citizen, and she lives with Applicant. (Item 4) Her father is a permanent resident of the United States, and he lives with Applicant. (Item 4)

Applicant's husband was naturalized as a U.S. citizen in 2009. (Item 4) Applicant's mother-in-law and father-in-law are citizens and residents of Syria. Her father-in-law is a farmer, and her mother-in-law is a housewife. (Item 4) Applicant said she has limited contact with her parents-in-law because she does not speak Arabic, which is their language, and they do not speak Turkish. Sometimes she participates in conversations with them when her husband contacts them using Skype. (Item 4) She visits them once every two years when they meet her in Turkey to see their granddaughter. Her husband's most recent visit to Syria was in 2007. Applicant's husband has weekly telephone contact with his parents. (Item 4)

### **Republic of Turkey**

Turkey is of strategic geographic significance because it controls the straits that link the Black Sea with the Mediterranean and because it borders Iran, Iraq, and Syria.

Effective July 26, 2016, the U.S. State Department issued a Travel Warning, advising U.S. citizens of increased terrorist threats throughout Turkey and to avoid all travel to southeastern Turkey. Based upon the July 15, 2016 coup attempt, it also advised that U.S. citizens reconsider all travel to Turkey and noted its decision to allow for the voluntary departure of family members of employees posted to the U.S. Embassy in Ankara and the U.S. Consulate General in Istanbul. It also noted that U.S. citizens may see an increase of police or military presence and restrictions on movement.

There have been violent, terrorist attacks in Turkey, and the possibility of terrorist attacks against U.S. citizens and interests remains high. Domestic and transnational terrorist groups have targeted and continue to target Turkish citizens and foreigners in Turkey. Terrorist groups that operate in Turkey include Kurdish nationalists, Al-Qaida, Marxist Leninist, and Syrian groups, including ISIL.

By virtue of its location, the international transport hubs on its territory, and its long border with Syria and Iraq, Turkey is the main transit route for foreign terrorist fighters. Issues with Turkey's border security are aggravated by its unwillingness to impose visa requirements for some major foreign terrorist fighter source countries such as Libya.

In 2014 and 2015, Turkey faced significant internal terrorist threats, including increased activity by the Revolutionary People's Liberation Party/Front (DHKP/C), a terrorist Marxist-Leninist group with anti-U.S. and anti-NATO views that seeks the violent overthrow of the Turkish state. This group threatened the security of both U.S. and Turkish interests. A number of attacks occurred, including a suicide bombing of the U.S. Embassy in 2013 and an attempted shooting of the U.S. Consulate General in August 2015.

Also prominent among terrorist groups in Turkey is the Kurdistan Workers' Party (PKK). Following three decades of conflict with the PKK terrorist organization, the Turkish government and PKK leader began talks for a peace process in late 2012. In March 2013, the PKK called for a cease fire, which both sides largely observed, apart from small-scale PKK attacks. These peace talks continued in 2014. However, in the summer of 2015, the PKK resumed widespread attacks against Turkish Security Forces in the southeast of Turkey.

In 2014, several notable terrorist attacks occurred in Turkey, including the killing of three and wounding of five more by three ISIL gunmen at a checkpoint; the killing of 40 civilians during two days of protests. Clashes among various Kurdish terrorist groups and Turkish security forces occurred; and, in October 2014, the PKK killed three Turkish soldiers in two separate incidents.

In 2015 and 2016, there were also several notable and high profile terrorist attacks that occurred in Turkey: a July suicide bombing attack believed to have been carried out by ISIL in the town of Suruc that killed 33 people and wounded 100 more; a suicide bomb attack believed to have been carried out by ISIL that killed 103 in Ankara in October 2015; and another deadly terrorist attack in Ankara in March 2016.

The most significant human rights problems in Turkey in 2015 included government interference with freedom of expression, impunity and weak administration of justice, and inadequate protection of civilians. Authorities imprisoned approximately 30 journalists under the auspices of an anti-terror law. Authorities exerted pressure on the media through security raids, suppression of publications, criminal investigations of journalists and editors, and internet blocking. Authorities applied the law inconsistently, made over-broad use of the anti-terror law, made arbitrary arrests, and arguably attempted to unlawfully intimidate the judicial branch of the government. Additionally, as a result of renewed fighting with the PKK, authorities and the PKK killed and injured innocent civilians, intimidated medical workers, teachers, and other civil leaders, and imposed curfews that restricted individuals' access to basic needs for periods of up to a week.

Other significant human rights problems in Turkey in 2015 included restrictions on freedom of speech, such as arrests and imprisonment for insulting the Turkish Nation or its leaders, restrictions on freedom of assembly by deeming many protests security threats, and mistreatment of refugees through physical abuse or a lack of access to basic needs.

In 2014, the U.S. State Department noted the following abuses of religious freedom in Turkey: prosecutions for insulting Islamic beliefs; Turkish elected officials making anti-Semitic statements; and discrimination against non-Sunni Muslims, including Christians, Jews, and Alevi Muslims.

## **Syria**

The Syrian Arab Republic (Syria) is ruled by an authoritarian regime dominated by the Socialist Ba'ath Party, which is currently engaged in a full-scale civil war with the armed Syrian opposition. The "regime has used deadly force to quell anti-government protests and is engaged in a full-scale civil war with the armed Syrian opposition. The government is no longer in control of vast swathes of the country, particularly in northern and eastern Syria. Some Syrian opposition groups have utilized car bombs, improvised explosive device/indirect-fire attacks, sniper fire, and kidnaping throughout the country. Foreign combatants - including Iranian regime elements, Hizballah fighters, Islamic extremists, and al Qaida-linked elements - are participating in the hostilities. ISIL controls large amounts of territory in the north and east of the country where it has committed atrocities against civilians, including U.S. citizens. The Syrian regime's military operations have involved the use of ballistic missiles, aerial attacks, heavy artillery, and chemical weapons targeting civilian centers."

Military attacks from the Assad regime or other groups can happen any time without warning and no part of Syria can be considered safe from violence, including the risk of kidnapping, sniper attacks, terrorist attacks, military attacks, arbitrary arrests, detention, and torture. Throughout Syria, U.S. citizens have experienced and will continue to experience a high risk of being kidnaped.

The U.S. intelligence community assesses with high confidence that the Assad regime has used chemical weapons, including the nerve agent sarin, on a small scale against the Syrian people multiple times over the past year. It also assesses that ISIL is likely responsible for several mustard gas attacks in Syria.

The current security situation in Syria is unlikely to change soon. The war has caused hundreds of thousands of deaths with many thousands wounded, 4.8 million refugees and over 6.5 million internally displaced persons. The U.S. "Department of State continues to warn citizens against travel to Syria and strongly recommends that U.S. citizens remaining in Syria depart immediately."

Syria is designated by the U.S. Department of State as a State Sponsor of Terrorism, and has been since 1979. Syria continues to provide political and other support to a variety of terrorist groups. It has provided political and weapons support to

Hizballah and Iran while Iran, in turn, has supported the Syrian regime against its opposition.

The Assad regime has played a significant role in the growth of terrorist organizations such as al Qaeda and ISIL. As a result of its permissive attitude towards these organizations and others like them, it has acted as a terrorist hub for foreign fighters entering Iraq to battle U.S.-led coalition forces. Over the years, Syria's encouragement of violent extremists to transit through its borders has resulted in it becoming an environment where terrorist groups such as ISIL have planned and launched deadly terrorist attacks against countries such as France, Saudi Arabia, Lebanon, and the United States.

Syria also continues to generate significant concern regarding the role it plays in terrorist financing. Industry experts have reported that 60% of all business transactions were conducted in cash and nearly 80% of all Syrians did not use formal banking services. This environment has contributed to a vast Syrian black market, estimated to be as large as Syria's formal economy. Regional *hawala* networks, operating in smuggling and trade-based money and facilitated by government corruption, contribute to concerns that members of the Syrian government and the business elite are complicit in terrorist finance schemes.

The U.S. Department of State's 2015 Human Rights Report stated that the worst human rights violations were caused by the Assad regime's fundamental lack of regard for the well-being of most of its populace. Human rights violations were widespread and consisted of the government's failure to protect its people from deadly violence and other abuses by terrorist groups such as ISIL and Jabhat al-Nusra. The Assad government has perpetrated indiscriminate and unlawful violence against its citizens, including bombings of schools, hospitals, and residential areas, often for the purpose of furthering a military goal. The Assad regime also violated its citizens' basic civil liberties, such as the right to a fair trial, and freedoms of movement, expression, and association.

U.S. citizen men over the age of 18, even those who have never resided in or visited Syria, but whose fathers are of Syrian descent, are required to complete military service or pay the exemption fee. The families of women who are dual Syrian/United States citizens have prevented them from leaving the country, often attempting to force them to marry while in Syria. Moreover, a Syrian husband may take legal action against his spouse to prevent her from leaving the country, regardless of her citizenship.

The Syrian government conducts surveillance of foreign visitors. U.S. citizens visiting Syria should expect the potential for monitoring of their activities, and the possibility of incarceration for seemingly innocuous actions such as taking pictures, using a GPS, or discussing politics or religion.

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no 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 applicant’s 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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, 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.

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 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 “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It 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 (4<sup>th</sup> 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. 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. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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 determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Foreign Influence**

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

[I]f the individual has divided loyalties or foreign financial interests, [he or she] 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 security 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.

SOR ¶ 2.a alleges that Applicant’s sister is a citizen and resident of Turkey. She moved to the United States, and Applicant’s relationship with her sister no longer raises a security concern. Foreign influence security concerns regarding Turkey are mitigated.

SOR ¶ 2.b alleges, and the record establishes that Applicant’s parents-in-law are citizens and residents of Syria. The mere possession of close family ties with a person



in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country, and an Applicant has frequent, non-casual contacts with that relative, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See 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 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. Syria's relationship with the United States places a significant, but not insurmountable burden of persuasion on Applicant to demonstrate her relationship with her spouse and his relationship with his parents do not pose a security risk. She should not be placed in a position where she might be forced to choose between loyalty to the United States and her spouse and parents-in-law. With its poor human rights record, political, economic and military turmoil and on-going civil war, it is conceivable that the Syrian government or terrorists might target or coerce anyone in Syria in an attempt to gather valuable U.S. information from a security clearance holder.

Applicant's connections to her spouse and his relationship with his parents create a potential conflict of interest because these relationships are sufficiently close to raise a possible security concern about her desire to help her spouse and his parents by providing classified information. Applicant lives with her spouse, and he is in frequent contact with his parents living in Syria. These relationships create "a heightened risk of foreign inducement, manipulation, pressure, or coercion" under AG ¶ 7(d).

The Government produced substantial evidence of Applicant's husband's contacts and relationships with his parents to raise the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a), 7(b), and 7(d) apply.

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.

None of the mitigating conditions apply to Applicant's relationship with her spouse and his relationships and frequent contacts with his parents living in Syria. Applicant has been married since 2005, and she has an emotional bond with her spouse. He communicates with his parents in Syria weekly. Although her close relationship with her spouse and his relationships and frequent contacts with his parents are important positive reflections of character, the same close relationships raise security concerns for possible foreign influence.

There is no evidence of the following elements that could enhance security concerns: (1) Applicant's spouse and his parents have been political activists, challenging the policies of the Syrian government; (2) his parents have ever worked for the Syrian government or military or any news media; (3) terrorists or the Syrian government have approached or threatened Applicant's spouse or his parents for any reason; (4) his parents currently engage in activities that would bring attention to them; and (5) Syrian elements are aware that Applicant works for a government contractor or might have access to classified information. As such, there is a reduced possibility that Applicant, his spouse, or his parents would be targets for coercion or exploitation.

Applicant deserves some credit because of the reduced possibility that Syrian elements will exploit her parents-in-law because of the low profile her parents-in-law have in Syrian society. However, Applicant's close relationship with her spouse and his relationships and frequent contacts with his parents as well as the nature of the Syrian government and that government's contentious relationship with the United States, all weigh against mitigating security concerns. See ADP Case No. 05-17812 at 2, 3 n.2 (App. Bd. Jun. 11, 2007) (finding contacts with siblings in PRC "once every two or three months" not to be casual and infrequent); ISCR Case No. 04-12500 at 2, 4 (App. Bd. Oct. 26, 2006) (finding contacts with applicant's parents and sisters a total of about 20 times per year not casual and infrequent); ISCR Case No. 04-09541 at 2-3 (App. Bd.

Sep. 26, 2006) (finding contacts with applicant's siblings once every four or five months not casual and infrequent).

Applicant's close relationships with her relatives living in the United States and her strong connections to the United States tend to mitigate foreign interest security concerns. Applicant moved to the United States more than 21 years ago. She is fully inculcated with U.S. values. She has worked for a government contractor for nine years. She has no financial connections to Syria. She is a loyal, dedicated U.S. citizen.

In a case where the applicant had limited contacts with his Russian in-laws, as he could not speak Russian and they could not speak English, the Appeal Board stated:

[A]s a matter of common sense and human experience, there is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse. See, e.g., ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)). . . [T]he Judge's conclusion that, through his wife, Applicant has close ties to his Russian in-laws is consistent with the record evidence. The Judge's further conclusion that Applicant had failed to mitigate the security concerns arising from this relationship is also consistent with the record evidence. See ISCR Case No. 01-26893 (App. Bd. Oct. 16, 2002).

ISCR Case No. 07-17673 at 3 (App. Bd. Apr. 2, 2009). Applicant's husband's relationships with his parents who are citizens and residents of Syria raise an unmitigated foreign influence security concern.

## **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(a)(1) describes a condition 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."

In 2001, Applicant became a naturalized U.S. citizen. She obtained a Turkish passport in 2011, and used it in Turkey in 2014. AG ¶ 10(a)(1) applies to her possession of a Turkish passport after becoming a U.S. citizen.

AG ¶ 11(e) provides a condition that could mitigate security concerns in this case: "(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated." In August 2016, Applicant surrendered her Turkish passport to her facility security officer. AG ¶ 11(e) applies to her possession of a Turkish passport. Foreign preference security concerns are 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 C and B in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

There are some facts supporting a grant of Applicant's access to classified information. Applicant is a 37-year-old senior specialist, who has worked for the same DOD contractor since 2008. In 1995, she immigrated to the United States, and in 2001, she was naturalized as a U.S. citizen. In 2000, she graduated from high school in the United States, and in 2004, she received an associate's degree in software development from a U.S. college. In 2011, her child was born in the United States. Her daughter is a resident of the United States. Her husband is a naturalized U.S. citizen. She surrendered her Turkish passport to her security manager. Her parents, brother, and sister are residents of the United States. Her mother is a naturalized U.S. citizen, and her father is a permanent resident of the United States. She has strong connections to the United States.

A Guideline B decision concerning a foreign country must take into consideration the geopolitical situation and dangers in that country including from intelligence agents.<sup>2</sup> The danger of coercion from the Syrian government, intelligence agents, or terrorist entities is more likely than in many other countries. The devastating civil war in Syria continues to cost lives and risks the involvement of the United States, Russia, Iran, Turkey, and other countries in the conflict.

The weight of the evidence supports denial of Applicant's access to classified information. Applicant's mother-in-law and father-in-law are citizens and residents of

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<sup>2</sup> 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).

Syria. Applicant's husband frequently communicates with his parents.<sup>3</sup> "It is not to question Applicant's patriotism to acknowledge that the record in [Applicant's] case raises the reasonable concern that [she] could be placed in a position of having to choose between [her] ties to the U.S. and [her] obligations to [her] foreign family members." ISCR Case No. 07-02485 at 5 (App. Bd. May 9, 2008) (reversing grant of security clearance because of Chinese connections). See *also* ISCR Case No. 06-18337 (App. Bd. Feb. 8, 2008) (reversing grant of security clearance because of Syrian connections). The Appeal Board has noted in a case involving an applicant's in-laws living in Russia:

Applicant's wife appears to be close to her relatives, and Applicant's evidence that he does not speak with these relatives himself, due among other things to a language barrier, is not sufficient to rebut the presumption that he shares a sense of obligation to them through his wife. Neither is it sufficient to mitigate the risk that Applicant's in-laws could, through their frequent contact with Applicant's wife, become a means of foreign influence or exploitation.

ISCR Case No. 11-04980 at (App. Bd. Sept. 21, 2012).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude Applicant has mitigated the foreign preference security concern; however, she has failed to mitigate the foreign influence security concern.

### **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 C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant

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<sup>3</sup> Applicant has the burden of showing her parents-in-law do not pose a risk to national security. ISCR Case No. 11-04980 at 5 (App. Bd. Sept. 21, 2012) ("ISCR Case No. 04-11664 at 4 (App. Bd. Apr. 6, 2007)(A paucity of record evidence as to an applicant's contacts with his foreign in-laws must be resolved in the context of the applicant's burden of persuasion.)"). The evidence about Applicant's in-laws living in Syria was not sufficiently developed to mitigate security concerns.

## **Conclusion**

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

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Mark Harvey  
Administrative Judge