



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 6393738

Date: AUG. 21, 2020

Appeal of National Benefits Center Decision

Form I-485, Application to Adjust Status

The Applicant is a citizen of Cameroon who seeks to adjust status to that of a lawful permanent resident under section 13 of the 1957 Immigration Act (Section 13). 8 U.S.C. § 1255b. Section 13 allows a foreign national who was previously an A-1, A-2, G-1, or G-2 nonimmigrant to adjust status if certain criteria are met.¹

The Director of the National Benefits Center denied the application, concluding that the Applicant did not establish, as required, that compelling reasons render him unable to return to Cameroon.

On appeal, the Applicant submits additional evidence and asserts that his life would be in danger if he were to return to Cameroon, because he is the son of a former diplomat and the situation in Cameroon is volatile.

Section 13 applicants bear the burden of proving their eligibility to adjust status. Section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss the appeal because the Applicant has not met this burden.

I. LAW

Section 13 is an adjustment of status category for foreign nationals who can demonstrate, in part: (1) failure to maintain A-1, A-2, G-1, or G-2 nonimmigrant status as of the application's filing date; (2) performance of diplomatic or semi-diplomatic duties by the principal on behalf of the accrediting country; and (3) inability, because of compelling reasons, to return to the country that accredited the foreign national. 8 U.S.C. § 1255b(b); 8 C.F.R. § 245.3.²

¹ Pub. L. No. 85-316, 71 Stat. 642, amended by Pub. L. No. 97-116, 95 Stat. 161 (1981). The A nonimmigrant classification is for diplomats and foreign government officials (principal) as well as their immediate family members. The G nonimmigrant classification is for employees of certain international organizations (principal) and their immediate family members. See <https://travel.state.gov>.

² If the first three eligibility requirements are met, applicants must also establish that compelling reasons demonstrate that their adjustment would be in the national interest and would not be contrary to the national welfare, safety, or security of the United States and that they are of good moral character and admissible to the United States. Discussion of these remaining criteria is generally unnecessary in cases where the first three eligibility criteria have not been met.

II. ANALYSIS

The Applicant is seeking to adjust status under Section 13 as the immediate relative of a diplomat or foreign government official. The record indicates that the Applicant's father (principal) is the former [redacted] who was employed at the Embassy of the Republic of Cameroon in the United States.

The Director determined that the Applicant did not establish he qualified for adjustment of status under Section 13, because he did not provide evidence of compelling reasons related to political changes in Cameroon that made him stateless or homeless or placed him risk of harm from the government. On appeal, the Applicant submits a statement from his father, a personal declaration, and copies of online articles about the current situation in Cameroon and reasserts eligibility.

We have reviewed the entire record, including the evidence submitted on appeal, and agree with the Director that the Applicant has not demonstrated that he is unable to return to Cameroon because of compelling reasons.

A Section 13 applicant must show “[c]ompelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien’s immediate family and that adjustment of the alien’s status to that of an alien lawfully admitted for permanent residence would be in the national interest (emphasis added)” 8 U.S.C. § 1255b(b). However, neither the statute nor the regulation at 8 C.F.R. § 245.3 defines the term “compelling reasons” or describes the factors for us to consider. Therefore, to meaningfully interpret Congress’ intent in requiring an applicant to show the existence of compelling reasons, we must turn to the statute’s legislative history.

When originally introduced in Congress in 1957, the purpose of Section 13 was to provide for lawful permanent residency to “[t]hose high ranking Government officials and their immediate families who have come here as diplomatic representatives, or representatives of their countries to the United Nations [and who], [b]ecause of Communist and other uprisings, aggression, or invasion . . . are left homeless and stateless.” 85th Cong., 103 Cong. Rec. 14660. The enacted legislation required a foreign national to have failed to maintain his or her A or G nonimmigrant status, demonstrate that he or she is a person of good moral character and admissible to the United States, and that adjusting the foreign national’s status would not be contrary to the national welfare, safety, or security of the United States. The statute did not, however, contain explicit language requiring a foreign national to show compelling reasons demonstrating both an inability to return to the country of accreditation or that the adjustment would be in the national interest. Rather, the compelling reasons language was added to the statute in 1981 because on several occasions during the prior years, Congress opposed the recommended approval of numerous Section 13 applications “for failure to satisfy the criteria clearly established by the legislative history of the 1957 law.” H.R. Rep. 97-264 (1981).

As noted in one report:

The Committee recalls that the purpose of this section, as reflected in the legislative history, is to permit the adjustment of immigration status to a limited number (50) of foreign diplomats who for compelling reasons may find it impossible to return to the

countries which accredited them to the United States (Report No. 1199, 1st Session – 85th Congress). . . .

(Emphasis added). H.R. Rep. 94-1659 (1976).

The legislative history of Section 13 reflects that Congress created this immigration classification for a select few—high-ranking government officials whose return to their countries of accreditation was impossible due to dramatic political changes that had occurred during the officials’ diplomatic postings. Accordingly, we must interpret the term “compelling reasons” narrowly, consistently with the expressed intent of Congress, when determining whether an applicant is unable to return to the country of accreditation. Reasons that may be considered compelling are those resulting from a fundamental political change that has, in essence, rendered an applicant homeless or stateless, making it impossible for the applicant to return to the country of accreditation because of the A or G nonimmigrant status that the applicant once held. An applicant bears the burden not only of demonstrating the fundamental political change that has occurred, but also showing that, as a result, it has become impossible to return to that country because of his or her prior A or G nonimmigrant status and that the applicant has thus been rendered homeless or stateless.

We realize that a narrow interpretation of the term “compelling reasons” will exclude those applicants who desire to remain in the United States to seek and pursue medical, educational, and employment opportunities for themselves or their family members that may not be available in the countries of accreditation. However, we believe that a narrow interpretation is appropriate in light of the classification’s legislative history, as Section 13 was not created as an adjustment of status of category for all former A or G nonimmigrants who may face difficulties or disruptions upon returning to their countries of accreditation.

The Applicant explains that he is from the French-speaking part of Cameroon, and that the country has faced increasingly violent uprisings by the English-speaking minority that opposes forced assimilation into Francophone culture, and the government responded to the Anglophone separatist movements with a violent crackdown. The separatists, in turn have waged attacks on the country’s armed forces and civilians supportive of the government. The Applicant asserts that his father’s work for the French dominated Cameroonian government has placed him at a risk of harm by the Anglophone separatists who target government supporters, as his own uncle was assassinated by members of the English-speaking rebels and his father received threats against his life and had to relocate within Cameroon several times. He further states that he may also be subject to attacks by the current Francophone government forces and Francophone civilian population because he has been residing in the United States since he was a child and did not have an opportunity to learn French.

The Applicant’s father states that he has been employed with the government of Cameroon since 1992 and confirms that it is not safe for the Applicant to return to his home country because of the ongoing conflict between the government forces and the separatists who attack and intimidate Cameroonian government officials, including diplomats. He claims that he personally experienced such an intimidation attempt when the items on the fence around his property in Cameroon were destroyed by unknown perpetrators, and that the Applicant may similarly be threatened and intimidated by the separatists because of his father’s service in the Cameroonian government.

We acknowledge the Applicant's and his father's testimony, as well as the online articles discussing the situation in Cameroon. However, the Applicant does not indicate that he himself received any specific threats, and the record does not establish that he would be in any greater danger from either side of the conflict than any other citizen of Cameroon. While we recognize that there is an ongoing conflict within the English-speaking regions of the country, the general adverse country conditions are not considered compelling reasons in the context of Section 13 adjustment. Rather, reasons that may be considered compelling are those resulting from a fundamental political change that constrains a former diplomat's or the family members' return to the home country because of the diplomat's prior government service. Here, the Applicant does not claim that such a fundamental political change took place in Cameroon since his father was admitted to the United States as a diplomat and that he is unable to return to Cameroon as a result of this change. Furthermore, the record reflects that after returning to Cameroon in 2008, the Applicant's father again started working for that country's government in 2011 and has been frequently traveling between Cameroon and the United States since that time as either an A-2 or G-2 nonimmigrant without an apparent incident. These facts undermine the Applicant's claim that he would be at a risk of harm upon returning to Cameroon because of his father's government employment.

Based on the above, we conclude that the Applicant has not established that there are compelling reasons that prevent him from returning to Cameroon. Accordingly, we need not address whether he has established that his adjustment of status under Section 13 is in the national interest or warrants approval as a matter of discretion, and his application will remain denied.³

ORDER: The appeal is dismissed.

³ Instead, we reserve those issues. Our reservation of the issues is not a stipulation that the Applicant meets these requirements and should not be interpreted as such. Rather, as the Applicant has not established existence of compelling circumstances required for adjustment under Section 13, there is no constructive purpose in considering whether he satisfies the remaining criteria for such adjustment, because it would not change the outcome.