



Fact Sheet

October 19, 2009

Secretaries Napolitano and Clinton Exercise Authority Under the Immigration and Nationality Act (INA) to Exempt Individuals Affiliated with Certain Iraqi Groups from Certain Inadmissibility Provisions

Effective September 21, 2009, Secretary of Homeland Security Janet Napolitano and Secretary of State Hillary Rodham Clinton, following consultation with each other and the Attorney General, exercised their discretionary authority under Immigration and Nationality Act (INA) section 212(d)(3)(B)(i) to exempt qualified individuals, as determined by officials of their respective Departments based on specified standards, from certain inadmissibility grounds in section 212(a)(3)(B) of the INA with respect to activities or associations related to the Iraqi National Congress (INC), the Kurdistan Democratic Party (KDP), and the Patriotic Union of Kurdistan (PUK). This exercise of authority will benefit qualified individuals seeking immigration benefits or protection in the United States who would otherwise be ineligible for the status sought, based on activities or associations related to one of these organizations.

The Secretary of Homeland Security and the Secretary of State have discretion, under the INA, to exempt individuals from most of the INA-defined “terrorist”-related grounds of inadmissibility, which also affect their removability from the United States. This exercise of authority is used to benefit only individuals who pose no risk to the security of the United States.

The exemption authority can be exercised in favor of an alien seeking a benefit or protection under the INA who has been determined to be otherwise eligible for the benefit or protection but for the relevant involvement with one of the three organizations. In order to be considered for the recently signed exemption, the applicant must satisfy the relevant agency authority that he or she:

- (a) has undergone and passed relevant background and security checks;
- (b) has fully disclosed, in applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of activities or associations falling within the scope of the terrorist activity-related grounds of the INA;
- (c) has not participated in, or knowingly provided material support to, terrorist activities that targeted noncombatant persons;
- (d) poses no danger to the safety and security of the United States; and
- (e) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

The exemption authority can only be applied to aliens whose activities relate to the INC, KDP, or PUK. Implementation of the exemption authority determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection application, unless such exercise of authority has been revoked.

The signed “Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act” for individuals affiliated with the INC, KDP and PUK may be found on the USCIS.gov website.

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