

Title E of Public Law 108-458

SEC. 5501. INADMISSIBILITY AND DEPORTABILITY OF ALIENS WHO HAVE COMMITTED ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS ABROAD.

(a) INADMISSIBILITY- Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) is amended--

(1) in clause (ii), by striking “has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is inadmissible’ and inserting ‘ordered, incited, assisted, or otherwise participated in conduct outside the United States that would, if committed in the United States or by a United States national, be genocide, as defined in section 1091(a) of title 18, United States Code, is inadmissible”;

(2) by adding at the end the following:

“(iii) COMMISSION OF ACTS OF TORTURE OR EXTRAJUDICIAL KILLINGS- Any alien who, outside the United States, has committed, ordered, incited, assisted, or otherwise participated in the commission of--

“(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

“(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note),

is inadmissible.”; and

(3) in the subparagraph heading, by striking ‘PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE’ and inserting ‘PARTICIPANTS IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING’.

(b) DEPORTABILITY- Section 237(a)(4)(D) of such Act (8 U.S.C. 1227(a)(4)(D)) is amended--

(1) by striking ‘clause (i) or (ii)’ and inserting ‘clause (i), (ii), or (iii)’; and

(2) in the subparagraph heading, by striking ‘ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE’ and inserting ‘PARTICIPATED IN NAZI PERSECUTION, GENOCIDE, OR THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING’.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to offenses committed before, on, or after the date of enactment of this Act.

SEC. 5502. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) GROUND OF INADMISSIBILITY- Section 212(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

“(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE COMMITTED PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM- Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402), is inadmissible.”.

(b) GROUND OF DEPORTABILITY- Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

“(E) PARTICIPATED IN THE COMMISSION OF SEVERE VIOLATIONS OF RELIGIOUS FREEDOM- Any alien described in section 212(a)(2)(G) is deportable.”.

SEC. 5503. WAIVER OF INADMISSIBILITY.

Section 212(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(3)) is amended--

(1) in subparagraph (A), by striking `and 3(E)' and inserting `and clauses (i) and (ii) of paragraph (3)(E)'; and

(2) in subparagraph (B), by striking `and 3(E)' and inserting `and clauses (i) and (ii) of paragraph (3)(E)'.

SEC. 5504. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO HAVE COMMITTED ACTS OF TORTURE, EXTRAJUDICIAL KILLINGS, OR SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended--

(1) by striking the period at the end of paragraph (8) and inserting `; or'; and

(2) by adding at the end the following:

`(9) one who at any time has engaged in conduct described in section 212(a)(3)(E) (relating to assistance in Nazi persecution, participation in genocide, or commission of

acts of torture or extrajudicial killings) or 212(a)(2)(G) (relating to severe violations of religious freedom).'

SEC. 5505. ESTABLISHMENT OF THE OFFICE OF SPECIAL INVESTIGATIONS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT- Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:

`(h)(1) The Attorney General shall establish within the Criminal Division of the Department of Justice an Office of Special Investigations with the authority to detect and investigate, and, where appropriate, to take legal action to denaturalize any alien described in section 212(a)(3)(E).

`(2) The Attorney General shall consult with the Secretary of Homeland Security in making determinations concerning the criminal prosecution or extradition of aliens described in section 212(a)(3)(E).

`(3) In determining the appropriate legal action to take against an alien described in section 212(a)(3)(E), consideration shall be given to--

`(A) the availability of criminal prosecution under the laws of the United States for any conduct that may form the basis for removal and denaturalization; or

`(B) the availability of extradition of the alien to a foreign jurisdiction that is prepared to undertake a prosecution for such conduct.'

(b) AUTHORIZATION OF APPROPRIATIONS-

(1) IN GENERAL- There are authorized to be appropriated to the Department of Justice such sums as may be necessary to carry out the additional duties established under section 103(h) of the Immigration and Nationality Act (as added by this subtitle) in order to ensure that the Office of Special Investigations fulfills its continuing obligations regarding Nazi war criminals.

(2) AVAILABILITY OF FUNDS- Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

8 CFR 214.1 (c) Extension of stay --

(1) Filing on Form I-129. An employer seeking the services of an E-1, E-2, H-1B, H-2A, H-2B, H-3, L-1, O-1, O-2, P-1, P-2, P-3, Q-1, R-1, or TC nonimmigrant beyond the period previously granted, must petition for an extension of stay on Form I-129. The petition must be filed with the fee required in § 103.7 of this chapter, and the initial evidence specified in § 214.2, and on the petition form. Dependents holding derivative

status may be included in the petition if it is for only one worker and the form version specifically provides for their inclusion. In all other cases dependents of the worker should file on Form I-539. (Amended 6/11/01; 66 FR 31107) (Amended 3/17/00; 65 FR 14774)

(2) Filing on Form I-539. Any other nonimmigrant alien, except an alien in F or J status who has been granted duration of status, who seeks to extend his or her stay beyond the currently authorized period of admission, must apply for an extension of stay on Form I-539 with the fee required in § 103.7 of this chapter together with any initial evidence specified in the applicable provisions of § 214.2, and on the application form. More than one person may be included in an application where the co-applicants are all members of a single family group and either all hold the same nonimmigrant status or one holds a nonimmigrant status and the other co-applicants are his or her spouse and/or children who hold derivative nonimmigrant status based on his or her status. Extensions granted to members of a family group must be for the same period of time. The shortest period granted to any member of the family shall be granted to all members of the family. In order to be eligible for an extension of stay, nonimmigrant aliens in K-3/K-4 status must do so in accordance with § 214.2(k)(10). (Amended 8/14/01; 66 FR 42587)

(3) Ineligible for extension of stay. A nonimmigrant in any of the following classes is ineligible for an extension of stay:

(i) B-1 or B-2 where admission was pursuant to the Visa Waiver Pilot Program;

(ii) C-1, C-2, C-3;

(iii) D-1, D-2;

(iv) K-1, K-2;

(v) Any nonimmigrant admitted for duration of status, other than as provided in Sec. 214.2(f)(7); (Amended 3/17/00; 65 FR 14774)

(vi) Any nonimmigrant who is classified pursuant to section 101(a)(15)(S) of the Act beyond a total of 3 years. or (Amended 3/17/00; 65 FR 14774) (Added 8/25/95; 60 FR 44260)

(vii) Any nonimmigrant who is classified according to section 101(a)(15)(Q)(ii) of the Act beyond a total of 3 years. (Added 3/17/00; 65 FR 14774)

(4) Timely filing and maintenance of status. An extension of stay may not be approved for an applicant who failed to maintain the previously accorded status or where such status expired before the application or petition was filed, except that failure to file before the period of previously authorized status expired may be excused in the discretion of the Service and without separate application, with any extension granted from the date the previously authorized stay expired, where it is demonstrated at the time of filing that:

(i) The delay was due to extraordinary circumstances beyond the control of the applicant or petitioner, and the Service finds the delay commensurate with the circumstances;

(ii) The alien has not otherwise violated his or her nonimmigrant status;

(iii) The alien remains a bona fide nonimmigrant; and

(iv) The alien is not the subject of deportation proceedings under section 242 of the Act (prior to April 1, 1997) or removal proceedings under section 240 of the Act. (Revised effective 4/1/97; 62 FR 10312)

(5) Decision in Form I-129 or I-539 extension proceedings. Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.

INA: ACT 248 - CHANGE OF NONIMMIGRANT CLASSIFICATION

Sec. 248 of the Immigration and Nationality Act (a) The Secretary of Homeland Security may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status and who is not inadmissible under section 212(a)(9)(B)(i) (or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v)),^{1/} except ^{2/} (subject to subsection (b)) in the case of-

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), (K), or (S) of section 101(a)(15),

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.

(b) ^{2/} The exceptions specified in paragraphs (1) through (4) of subsection (a) shall not apply to a change of nonimmigrant classification to that of a nonimmigrant under subparagraph (T) or (U) of section 101(a)(15).