Office of Communications

U.S. Citizenship and Immigration Services

Fact Sheet

September 26, 2007

USCIS IMPLEMENTS AUTHORITY TO EXEMPT CERTAIN PERSONS WHO PROVIDED MATERIAL SUPPORT UNDER DURESS TO THE REVOLUTIONARY ARMED FORCES OF COLOMBIA (FARC)

On September 6, 2007, the Department of Homeland Security (DHS) issued a memorandum to U.S. Citizenship and Immigration Services (USCIS), which authorizes USCIS, in consultation with United States Immigration and Customs Enforcement (ICE), to implement the DHS Secretary's discretionary authority under the Immigration and Nationality Act (INA) to exempt from the material support inadmissibility provision certain individuals who provided material support under duress to the Revolutionary Armed Forces of Colombia (FARC).

In cases where applicants for immigration benefits provided material support to the FARC, USCIS will evaluate whether the material support was provided under duress and whether the totality of the circumstances warrants a favorable exercise of discretion. For more information, see the memorandum issued by Deputy Director, Jonathan Scharfen, and the procedures for processing such cases, as outlined in a May 24, 2007 memo entitled "Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations."

This authority is based on DHS Secretary Michael Chertoff's decision on April 27, 2007, to allow USCIS to provide exemptions to certain individuals who provided material support under duress to certain terrorist organizations described in subsections 212(a)(3)(B)(vi)(I) and (II) (designated terrorist organizations that are often referred to as Tier I and Tier II organizations) if warranted by the totality of the circumstances. As explained in the USCIS Fact Sheet issued May 10, 2007, the exemption authority will be exercised only for applicants who provided material support under duress to Tier I or Tier II organizations identified by DHS. FARC is the first such group identified by DHS. As DHS identifies other groups that may be considered under this exemption authority, USCIS will publish the names of the groups on its website.

Secretary Chertoff previously exercised his discretionary authority under the INA not to apply the material support provisions to certain categories of individuals on two previous occasions. On February 20, 2007, Secretary Chertoff exercised his discretionary authority not to apply the material support provisions to certain individuals who provided material support to one of the following eight groups: 1) Karen National Union/Karen National Liberation Army (KNU/KNLA), 2) Chin National Front/Chin National Army (CNF/CNA), 3) Chin National League for Democracy (CNLD), 4) Kayan New Land Party (KNLP), 5) Arakan Liberation Party (ALP), 6) Tibetan Mustangs, 7) Cuban Alzados, or 8) Karenni National Progressive Party (KNPP). On February 26, 2007, Secretary Chertoff exercised his discretionary authority not to apply the material support provisions to certain individuals who provided material support under duress to non-designated organizations (often referred to as "Tier III"), if a totality of the circumstances justifies the exemption.

Notice of the Secretary's exercise of discretionary authority may be found in the Federal Register at 72 Fed Reg 9954 (March 6, 2007) (8 groups); 72 Fed Reg 9958 (March 6, 2007) (Tier III); and 72 Fed.Reg. 26138 (May 8, 2007) (Tier I and II exemption).

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