



Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, December 10, 2020

The Departments of Justice and Homeland Security Publish Final Rule on Procedures for Asylum and Withholding of Removal

Today, the Department of Justice and the Department of Homeland Security (collectively, the Departments) announced the forthcoming publication of a Final Rule that will streamline and enhance procedures for the adjudication of claims for asylum, withholding of removal, and protection under the Convention Against Torture (CAT) regulations.

The Final Rule, consistent with the Immigration and Nationality Act (INA), will enable the Departments to more effectively separate baseless claims from meritorious ones. This will better ensure groundless claims do not delay or divert resources from deserving claims, and in particular, will better ensure the security of our nation's borders by facilitating the efficient review of claims in a manner consistent with the law and the integrity of our immigration system.

The Final Rule addresses public comment received following publication of a Notice of Proposed Rulemaking, and codifies amendments to multiple provisions of the Departments' regulations. The rule takes effect 30 days after publication in the Federal Register, which is scheduled to occur on Friday, Dec. 11, 2020.

The Final Rule makes the following changes to the Departments' regulations:

- Amend the regulations governing credible fear determinations so that individuals found to have such a fear will have their claims for asylum, withholding of removal, or protection under the CAT adjudicated by an immigration judge in streamlined proceedings, rather than in immigration court proceedings conducted under section 240 of the INA;
- Permit immigration judges to pretermite asylum applications without a hearing if the application does not demonstrate prima facie eligibility for relief;
- Clarify when an application is "frivolous";
- Clarify standards for the adjudication of asylum and withholding claims including amendments to the definitions of the terms "particular social group," "political opinion," "persecution," and "firm resettlement";
- Outline factors, including an exemption for children under 18 for the factor regarding unlawful entry or attempted unlawful entry, for adjudicators to consider when making discretionary determinations;
- Clarify the standard for determining the acquiescence of a public official or other person acting in an official capacity under the CAT regulations;
- Raise the burden of proof for the threshold screening of withholding and CAT protection claims from "significant possibility" to a "reasonable possibility" standard;
- Apply bars to asylum and withholding when making credible fear determinations; and
- Clarify the requirement to protect certain information contained in asylum applications, applications for withholding of removal under the INA, applications for protection under the regulations implementing the CAT, and applications for refugee admissions.

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