



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

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

MATTER OF P-C-

DATE: MAY 24, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, an international legal consultant specializing in the areas of the  seeks classification as an alien of extraordinary ability.<sup>1</sup> See Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner has received a major, internationally recognized award or met the requirements of at least three of the ten evidentiary criteria.

On appeal, the Petitioner submits additional evidence and asserts that the submitted evidence establishes that he meets the requisite three criteria and qualifies as an alien of extraordinary ability. In addition, the Petitioner asserts that the Director's distinction between "legal consulting" and the practice or field of law is unfounded.

Upon *de novo* review, we will sustain the appeal.

## I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

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<sup>1</sup> The Petitioner also bases his claim to the requested classification on his activity as a human rights activist (initially) and as a "social entrepreneur" and "international corporate activist" (on appeal.)

- (iii) the alien’s entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Director found that the Petitioner met two of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), relating to participation as a judge of the work of others, and a leading or critical role for organizations having a distinguished reputation. On appeal, the Petitioner asserts that he also meets the evidentiary criteria relating to published material about him and his work, and his authorship of scholarly articles. After reviewing all of the evidence in the record, we find that the Petitioner meets the requisite three criteria.

### A. Evidentiary Criteria

*Published material about the individual in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii)*

The Petitioner submitted multiple articles about him and his work as in-house counsel, as well as his role with the [redacted] and the [redacted]. [redacted] These materials were published in *Commercial Dispute Resolution, Decideurs*,

and *Le Monde du Droit*, and were accompanied by evidence about these publications from their own websites. The Director determined that because the record did not include comparative circulation data or other independent supporting documentation, this evidence does not establish that the publications qualify as professional or major trade publications or other major media.

On appeal, the Petitioner contends that the publications in which this material appeared are professional in nature, produced for legal and business professionals, and therefore that he need not demonstrate by virtue of comparative data that they are “major” since that term does not apply per the plain language of the regulations. We agree, and find that the submitted evidence sufficiently demonstrates that these are professional publications. For example, the cover, title page and table of contents of the issue of *Commercial Dispute Resolution* in which an interview of the Petitioner appears show that the focus of the publication is international commercial litigation, and intended to be read by legal and business professionals engaged or interested in this field. This is also demonstrated by the subject of the interview, in which the author describes the Petitioner’s legal career and his work with [redacted]. Similarly, whether or not *Decideurs* is “the leading monthly magazine” for executives, finance and legal professionals as its website claims, the evidence of its content, purpose and target audience adequately demonstrates that it qualifies as a professional publication.

The Petitioner also submitted the transcript of an interview of him that aired on France 24 regarding the [redacted] and his proposal for a new introduction to the book. Additional evidence establishes that France 24 qualifies as major media.

Therefore, this evidence establishes that the Petitioner meets this criterion.

*Evidence of the individual’s participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv)*

The record includes evidence of the Petitioner’s service on a judging panel for the “Legal and Tax Prize,” a student paper competition sponsored by a prestigious business school in [redacted] and an international law firm, for five straight years. In addition, the Petitioner served as a jury member for the [redacted] and Awards in 2010 and 2011, participating in the selection of “Best Benelux Law Firm” and “Best European Law Firm.” Accordingly, we agree with the Director that he meets the requirements of this criterion.

*Evidence of the alien’s authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi)*

On appeal, the Petitioner asserts that the Director, in generally describing the traits of “scholarly articles,” introduced additional requirements to the regulations and did not properly consider articles written by him which were published in qualifying media.<sup>2</sup> We note that the Director has not added requirements to the regulation, but instead described the general characteristics of scholarly articles, such as the inclusion of citations to reference material and the target audience for which they are

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<sup>2</sup> The description used by the Director is taken from Chapter 22.2(i) of the USCIS Adjudicator’s Field Manual, which addresses in part the evidentiary requirements under the criterion at 8 C.F.R. § 204.5(h)(3)(vi).

usually intended. He then indicates that some of the material submitted under this criterion does not possess these characteristics, such as the article published in *Gazette du Palais* about the [redacted] [redacted]. In his appeal brief, the Petitioner does not challenge the Director's finding regarding that work, but lists a total of six other articles, papers and books. Two of these articles are claimed to have been published in the online bulletin *e-Competitions*, which is exclusively available on the website of the quarterly journal *Concurrences*, but only one of these, a foreword written by the Petitioner for a special issue on [redacted], is included in the record. This article is scholarly in nature, concerns the area of the [redacted] [redacted] and is published in professional media.<sup>3</sup>

Another article, edited and authored in part by the Petitioner, is a white paper titled [redacted] [redacted]. The evidence shows that this 400-page document includes an introductory chapter written by the Petitioner, concerns the [redacted] and was published by legal publisher LexisNexis. As such, it also qualifies as a scholarly article in the Petitioner's field and published in professional media.

The record also includes evidence of the Petitioner's authorship of two books in the area [redacted] activism. The most recent of these is titled [redacted]. Although a copy of this book, or relevant pages of it, are not included in the record, it is described in two reviews as "an inventory of [redacted] on the Internet," together with a list of 50 proposals to combat its various forms on social networks, including the use of the [redacted] logo created by the Petitioner. However, without further evidence of the content and nature of this book, the evidence does not establish that it qualifies as a scholarly article. Leaving aside questions of format, the Petitioner has not shown that this book's intended audience are others in this field such as other activists, scholars, governmental officials or others involved in establishing or influencing [redacted] policy.

The same can be said of a second book coauthored by the Petitioner, [redacted]. A review of this book describes it as providing an overview of the subject title's history and suggesting solutions to help mitigate its spread via online platforms. As with the previous book, this evidence is insufficient to establish that it qualifies as a scholarly article. In addition, we note that the evidence does not show that either of these books qualify as professional or major trade publications, or other major media.

Therefore, based upon the articles concerning [redacted] discussed above, we disagree with the Director and find that the Petitioner meets this criterion.

*Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii)

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<sup>3</sup> The Director differentiated between "the business of legal consulting and the practice of law," and further found that because the practice of law is a profession under section 101(a)(32) of the Act, the practice of law is not one of the fields eligible for to qualify as an alien of extraordinary ability. He then determined that because the evidence submitted under this criterion concerns the practice of law, rather than legal consulting, it did not meet the requirements of this criterion.

The Petitioner submitted evidence of his role as President of both [redacted] as well as evidence which establishes that these organizations have a distinguished reputation. In addition, the record includes evidence which establishes the Petitioner's role as Vice President and General Secretary of [redacted], a French industrial group focused on [redacted]

In addition, the record includes evidence of the Petitioner's role as the President of [redacted] a French non-profit organization which aims to combat [redacted] on the internet and social media platforms. In support of this organization's reputation, the record includes several pages from its website, a list of webpages stated to include stories about [redacted] and the Petitioner's other work regarding [redacted], and a letter from [redacted] member of the French National Assembly. [redacted] notes that the organization works with UNESCO in its social media campaign.

Accordingly, we agree with the Director that the Petitioner meets this criterion.

### B. Final Merits

The Petitioner has submitted the requisite initial evidence, having provided evidence that he meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) as a legal consultant specializing in the area of the practice of [redacted].<sup>4</sup> In a final merits determination, we examine and weigh the totality of the evidence to determine whether the Petitioner has sustained national or international acclaim and is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

The evidence establishes that, as a leader of [redacted] [redacted] the Petitioner has achieved sustained acclaim in the field for his work in promoting [redacted]. The [redacted] largely drafted by him for [redacted] was later also adopted in large part by [redacted] due to his efforts. In addition, he continues to write and present in national forums. This work and the recognition it has brought him, in addition to his years serving as general counsel for the [redacted] and leadership position with [redacted] places him as one of the small percentage at the top of his field.

### C. Continue to Work in the Field

Per section 203(b)(1)(A)(ii) of the Act, the Petitioner must establish that he seeks to enter the United States to continue work in his area of extraordinary ability. Initially, he indicated that he would continue to work in the area of [redacted] and establish [redacted] in the United States, while also continuing work in establishing an [redacted]. In his response to the Director's request for evidence, the Petitioner presented a more detailed plan, which included developing ties between [redacted] and the [redacted], as well as advising, writing and speaking on [redacted]. He also further expanded upon his work with [redacted] and [redacted] in general. To the extent that the Petitioner intends to continue working in the

<sup>4</sup> We note that the evidence regarding his work in the area of combatting hate speech relating to [redacted] and more generally on social media has not met the requisite three criteria, and is therefore not considered in the final merits analysis.

areas of [REDACTED] the areas in which he has established his sustained national and international acclaim, we find that he meets this requirement.

### III. CONCLUSION

The Petitioner has submitted the required initial evidence, and demonstrated in the final merits determination that he is an international legal consultant of extraordinary ability. In addition, he has shown that he will continue to work in his area of extraordinary ability and that his entry will substantially benefit prospectively the United States.

**ORDER:** The appeal is sustained.

Cite as *Matter of P-C-*, ID# 2755109 (AAO May 24, 2019)