



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

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

In Re: 20612257

Date: JUN. 17, 2022

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a business executive in the pharmaceutical industry, seeks classification as an individual of extraordinary ability. *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 Texas Service Center denied the petition, concluding that record did not establish that the Petitioner meets at least three of the ten initial evidentiary criteria for this classification, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. *See* Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Upon *de novo* review, we will dismiss 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
- (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 recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria 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).

II. ANALYSIS

The Petitioner is a business executive with more than 25 years of experience in the pharmaceutical industry. The record reflects that she most recently served as [redacted] (Managing Director) of [redacted] from 2017 until 2019. She previously worked as a General Manager of [redacted] (2013 to 2017) and spent 17 years working in progressive positions for the [redacted] group of companies in Europe and the Americas, most recently as Executive President of [redacted] in Venezuela from 2011 to 2013. The Petitioner indicates that she intends to establish a U.S.-based consulting business to assist, coach and mentor business and organizational leaders.

Because the Petitioner has not indicated or demonstrated that she has received a major, internationally recognized award at 8 C.F.R. § 204.5(h)(3), she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner submitted evidence that satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which requires documentation of published material about the petitioner, relating to their work, in major trade or professional publications or other major media. The record supports the Director's determination that the Petitioner met this criterion.¹

On appeal, the Petitioner states that she can satisfy five additional criteria, discussed below. After reviewing all the evidence provided, we conclude that the Petitioner has not established that she meets at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and therefore has not satisfied the initial evidence requirements for this classification.

¹ The record includes a 2019 online article titled [redacted] published by [redacted]. The article is about the Petitioner, includes the required title, date, and author, and is accompanied by evidence that the publication qualifies as major media, as required by 8 C.F.R. § 204.5(h)(3)(iii).

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

This regulatory criterion requires evidence of the petitioner's receipt of prizes or awards and evidence that such prizes or awards are nationally or internationally recognized for excellence in the field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.²

The Petitioner established that she was the recipient of three awards: (1) [redacted] Award, presented by the 18th Edition of the Asia Pacific HRM Congress in 2019 and (2) two awards [redacted] Award and [redacted] Award) presented to her by [redacted] in 2017. Although we acknowledge that the awards granted by [redacted] recognize the Petitioner's professional accomplishments, the record does not establish the national or international significance of the awards or that the company's internal company awards program, which is necessarily limited to persons who work within a single organization, meets the requirements of this criterion. On appeal, the Petitioner does not pursue her claim that she meets this criterion based on her awards from [redacted]

The Petitioner's initial evidence included a copy of her [redacted] award certificate and a screenshot from the Asia Pacific HRM Congress website promoting its 2019 awards. The website lists the organizational and individual award categories. According to this information, entries for the individual category awards should be accompanied by a personal profile for the nominated person with information such as achievements, awards or accolades received, media coverage, articles published, photographs and "any other relevant details." The website indicates that "[t]he Jury will evaluate each entry & will decide on winners."

In a request for evidence (RFE), the Director advised the Petitioner that the initial evidence was not sufficient to establish that the awards she received met all requirements of this criterion. The Director advised that she should submit additional objective evidence demonstrating who is eligible for consideration for such awards, the criteria used to grant the awards, and the significance of the prizes or awards, to include the national or international recognition associated with them and the number of prizes awarded each year.

In response, the Petitioner resubmitted a copy of her award certificate and the website printout from the Asia Pacific HRM Congress regarding the 2019 awards. The only additional evidence she provided was a copy of an edited post on her LinkedIn page in which she quoted the invitation she received from the 18th Asia Pacific HRM Congress. The quoted portion of the post indicates that she would be receiving the title of [redacted] which the issuing organization described as [redacted]. The organizer's invitation indicated that the bases of selection for this award include building a sustainable leadership

² See 6 USCIS Policy Manual F.2(B)(2) appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2> (indicating that an award limited to competitors from a single institution, for example, may have little national or international significance).

pipeline in the organization, empowerment, social change, ability to influence and “building a successor in line and career path.”

The Director determined that the Petitioner did not submit objective evidence establishing that her [redacted] Award” is a nationally or internationally recognized award or prize for excellence in her field and therefore did not meet her burden to establish that it meets all requirements of this criterion.

On appeal, the Petitioner re-submits the evidence described above. In the appellate brief, counsel emphasizes that the website of the Asia Pacific HRM Congress states that its awards program recognizes the “Best of the Best.” Counsel further states that “the number of awardees is limited to one in each category, but it is open to any institution in the Asia Pacific region,” that “the award has great significance in the field,” and that is “internationally recognized – in all Asia Pacific region.” However, the record lacks objective evidence supporting these statements. Assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988) (citing *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980)). Counsel’s statements must be substantiated in the record with independent evidence.

While we acknowledge that the Asia Pacific HRM Congress is an international organization, this fact alone does not establish that its annual meeting issues awards that are nationally or internationally recognized in the Petitioner’s field as awards for excellence. The record does not include evidence demonstrating the recognition associated with the award outside the issuing organization. Rather, the only information regarding the award was sourced from the organization’s own website. The Petitioner did not offer supporting evidence, such as coverage of the award in professional or trade publications or other media or other evidence showing the award’s recognition for excellence in the field. Finally, although requested by the Director, the record does not contain sufficient information and evidence regarding the entry and selection process and the criteria used to select award recipients.

For the reasons discussed, the Petitioner has not established that she has been the recipient of an award that satisfies this criterion.

Documentation of the individual’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).

To satisfy this criterion, a petitioner must document their membership in an association and demonstrate that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.³

³ See 6 USCIS Policy Manual *supra*, at F.2(B)(2) appendix (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual’s distinguished achievements in original research).

The Petitioner initially claimed that she meets this criterion based on her membership in Young Presidents' Organization (YPO), her membership in the [redacted] The Organization of Pharmaceutical Producers of India (OPPI), and her election and service as [redacted] [redacted] for the German Venezuelan Chamber of Industry and Commerce [redacted]. The Director determined that she did not meet her burden to establish that any of these associations or organizations require outstanding achievements as a condition for membership or that such achievements are judged by recognized national or international experts in the field.

On appeal, the Petitioner's does not contest the Director's determination that she did not establish eligibility based on her participation in the [redacted] of OPPI and her [redacted] position with [redacted]⁴. Accordingly, we will limit our review to her claim that her membership in YPO meets all requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

With respect to her membership in YPO, the Petitioner submitted:

- Letter from the Chapter Manager of YPO Mumbai Connect confirming the Petitioner's membership in this chapter, one of 15 in the South Asia Region
- Screenshot of the Petitioner's membership profile page from the YPO Connect website
- YPO membership criteria and application procedure from the organization's website (YPO.org)
- Letter from [redacted] Grupo Maso, who states that he invited the Petitioner to join the YPO Venezuelan chapter in 2012

According to the YPO website, the organization requires prospective members to establish that they: (1) possess a qualifying title within their company or division (managing director, president, or board chairperson); (2) supervise at least 50 employees; (3) meet YPO's age requirement (under age 45 at the time of application), and (4) work for a qualifying corporation. To establish employment with a qualifying corporation, applicants must establish that their employer meets threshold financial requirements (minimum gross turnover or assets).

The YPO website indicates the foregoing criteria are the minimum requirements and that individual YPO chapters may have additional criteria. In addition, it states that "the application must be certified by an outside auditing firm or other approved independent third party." The third party must verify the applicant's job title, the number of employees supervised and their annual compensation, and the company sales/turnover.

With respect to the application and review process, the YPO website indicates that applications are reviewed by a "YPO membership development manager" and forwarded to a local chapter for consideration if all quantitative criteria are met. It states that local chapters have their own processes for admitting members. With respect to applicants that meet the quantitative requirements, it states:

⁴ We observe that although the Director stated that the Petitioner established her membership in OPPI and [redacted] the record does not contain objective evidence demonstrating that either of these organizations admits individual members based on a review of their individual achievements. Rather, it appears that she held elected or appointed positions as the representative of a member company. For example, a letter from the Director General of OPPI states that the Petitioner was part of the executive committee while representing [redacted]

Meeting the specific quantitative requirements does not automatically guarantee admittance into YPO. There are other important, less easily defined requirements that also need to be met. These are qualitative in nature and are at the discretion of the current chapter's executive committee.

While the evidence submitted clearly states the organization-wide threshold quantitative requirements for YPO membership, the record does not contain evidence from either local chapter that admitted the Petitioner addressing any additional requirements, their local process for admitting members, or information as to how they make discretionary decisions based on undefined qualitative factors. The evidence does not establish that the stated quantitative requirements (pertaining to the applicant's age, job title, company's finances, and the number of personnel supervised), although confirmed by third-party auditors, are subject to being judged by recognized experts in the field who make membership decisions.

The evidence indicates that final decisions are made by local chapter executive committees, but the record does not demonstrate that such committee positions are held by recognized national or international experts in the Petitioner's field.⁵ Nor does the record identify or document the discretionary qualitative factors these executive committees consider, such that we could determine whether "outstanding achievements," beyond the quantitative data collected on the application, are a condition for membership.

The evidence submitted in support of this criterion must demonstrate that, as a condition of being granted membership in an association, the person was judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought. We acknowledge that holding a senior executive position for a qualifying company relatively early in one's career is a significant professional achievement. However, but for the reasons discussed, the record does not establish that membership in YPO meets all elements stated at 8 C.F.R. § 204.5(h)(3)(ii). Accordingly, the Petitioner has not established that she satisfies this criterion.

Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v)

To satisfy this criterion, a petitioner must establish that not only have they made original contributions to the field, but also that those contributions have been of major significance. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Director acknowledged that the Petitioner submitted letters of recommendation and evidence of her participation in panel discussion and events and webinars. The Director concluded, however, that while the record reflects that the Petitioner has made business contributions that impacted her employer, the evidence did not demonstrate that she had made business-related contributions that had

⁵ On appeal, the Petitioner submits an excerpt from the YPO website which identifies the members of its [redacted]. She states "approval of membership eligibility" is made by this Board and they are recognized experts in the field. However, as discussed above, the evidence submitted from the organization indicates that final decisions regarding membership are made by executive committees at the local chapter level, rather than the Board for the larger YPO organization.

a broader impact or influence, such that her contributions could be considered of major significance in the field. The Director emphasized that the letters were not supported by sufficient independent and objective evidence establishing the significance of the Petitioner's contributions.

On appeal, the Petitioner asserts that the letters she submitted from "renowned people in the field" were supported with independent evidence that discusses her contributions, such as published articles and a book in which she was interviewed. She states that she was "the first [redacted] [redacted] in the world of business" and was given this title because she "headed a comprehensive and transformational effort of applying [redacted] to a large and complex commercial operation at [redacted]." The Petitioner maintains that while this approach initially impacted her employer it "has gained global recognition" as evidenced by the submitted media coverage.

In reviewing this criterion, we have considered the submitted letters,⁶ published materials, the Petitioner's participation in panels and workshops in her field, her work on the [redacted] of OPPI, as well as her statement in support of the petition. For the reasons discussed below, the record does not establish that the Petitioner's business-related contributions are of major significance in her field.

In her statement, the Petitioner explained that in her last assignment with [redacted] (from 2017 to 2019) she "received the mandate to implement a transformational operating model and a new approach to business and leadership." She indicates that the new strategy was implemented within one year, served as "a benchmark for several other companies" and "had influenced other leaders in the healthcare sector in India and the world." The Petitioner also emphasized that during her tenure with OPPI, she "led the member companies to work together on a strategy that followed the principle of bringing social impact to the association strategy, focusing on results beyond . . . selling our products, supporting the increase of access in Healthcare." In addition, the Petitioner emphasized that her efforts "to support the healthcare broader impact and a more humanized leadership" have resulted in invitations to participate in panel discussions and roundtables to discuss the future of leadership and healthcare.

The Petitioner's supporting evidence includes a letter from [redacted] [redacted] at [redacted] who states he reported to her during her tenure with that company. He states that the Petitioner's "people centric leadership style infused excitement and optimism in each and every employee of [redacted] and drove the organization to create a 2030 vision that centered around transforming healthcare in [redacted] & care for every patient's life." He states that this "industry first" vision was "complemented with a detailed strategic roadmap, a patient centric operating model and a purpose driven organization culture." [redacted] credits the Petitioner's "visionary and leadership centric leadership style" with yielding business growth, increased employee engagement scores, and the signing of several long-term MOUs focused on delivering broader healthcare impact with several government and large private organizations" which "set a defining trend in the industry." He further mentions that the Petitioner "regularly spoke at many industry conferences sharing her forward-looking views on how corporates can deliver a much larger impact on society, purpose driven leadership, and building Quantum organizations."

⁶ While we do not discuss every letter in this decision, we have reviewed and considered each one in evaluating whether the Petitioner established that she meets this criterion.

A letter from [redacted] also a senior manager with [redacted] discusses the Petitioner's work, noting that she "contributed significantly to the organization," and transformed it by bringing in [redacted] developing a long-term vision, and building a strategy to achieve the vision. [redacted] describes the Petitioner's operating model as "extremely futuristic as compared to the peer companies" and states that it "has been a benchmark for many who wish to transform their organizations." While she indicates that other teams within the [redacted] organization requested that the Petitioner share her expertise, she does not provide examples of how the influence or impact of her work with [redacted] extended outside the organization.

The record supports that the Petitioner made business-related contributions to [redacted] that significantly impacted her employer. However, the record does not contain sufficient support for a determination that her work with [redacted] has been widely recognized outside the organization as a contribution that serves as "a defining trend in the industry" or as a "benchmark" for the industry at large. Further, while the record includes evidence that the Petitioner has been invited to participate in panel discussions and workshops to speak to her peers about her work with [redacted] it does not contain evidence that these speaking engagements have already had a demonstrated impact or influence on other organizations or other business leaders in the field consistent with original contributions of major significance.

The Petitioner also provided a letter from [redacted] a professor at the University of [redacted] and instructor at [redacted] [redacted] who co-authored the book [redacted] stated that the authors interviewed the Petitioner as part of "a select group of business leaders who made a significant contribution to leadership in their organization and in society at large" for their book. [redacted] praises the Petitioner as a positive and inspirational leader, noting that she "motivated her team in [redacted] to create a comprehensive vision to improve the quality and access to healthcare for millions of people." He does not offer specific support for his general claim that she has made significant contributions to "society at large," or indicate that the Petitioner's vision for [redacted] had already achieved an influence that extended beyond the company or had a demonstrable impact on the quality and access of healthcare in [redacted] The record includes an excerpt from the [redacted] chapter that discusses the Petitioner's work at [redacted] The chapter explains the positive impact the Petitioner's purpose-driven, human-centered approach had on [redacted] and supports a determination that she made business contributions to her employer that have earned her some recognition from those who study organizational leadership based on these principles.

We have also considered letters that discuss the Petitioner's work with YPO and OPPI. Entrepreneur [redacted] notes that the Petitioner has "actively brought speakers from her vast global network to mentor or share experiences with the Indian colleagues in YPO." He further indicates that the Petitioner has been invited to serve as a speaker and to run workshops for the [redacted] YPO chapter "to share her professional experience on how to deliver results and increase productivity through more focus on [redacted] but he does not explain or point to evidence of how her experiences have been influential or impactful in the field.

The Petitioner also provided a letter from [redacted] Grupo Maso and member of YPO's Board for the Latin American Region. He states that during her time as a YPO member in Latin America, the Petitioner "was an inspiration for her work as a remarkable leader in the

Pharmaceutical industry during very complex times in Venezuela.” He states that she created “an extraordinary leadership model that would later become a global benchmark for [redacted]’ [redacted] praises the Petitioner’s talents, notes her participation as a speaker at YPO conferences and events, and asserts that “YPO Venezuela, and Venezuela in general, are better today thanks to the contributions [the Petitioner] made during her journey in Venezuela.” However [redacted] does not identify a specific contribution that had an impact on “Venezuela in general,” or otherwise explain how her work with either [redacted] or with YPO in Latin America is recognized as a majorly significant contribution to the field of business or organizational leadership.

A letter from OPPI’s [redacted] confirms that as part of the organization’s [redacted] [redacted] from 2018 to 2019, the Petitioner “participated in industry-led patient advocacy and actively engaged with the Government of India in addressing the healthcare challenges of the country.” The [redacted] also confirms the Petitioner’s previous role as [redacted] the OPPI [redacted] [redacted], noting she was “instrumental in creating a value-based healthcare mission for the Group,” and “responsible to drive 30 of the OPPI member companies and bring them together to work towards the collective and shared vision of providing better patient outcomes with the most sustainable costs.” He credits the Petitioner with “helping to reinforce the knowledge and thought leadership for OPPI in India” but does not address how her effective leadership of one of the association’s workgroups over a one-year period resulted in contributions that have significantly impacted or influenced the pharmaceutical or healthcare industry or other companies in the industry.

Letters from experts in the field that specifically articulate how an individual’s contributions are of major significance to the field and its impact on subsequent work add value. On the other hand, letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that may form the basis for meeting this criterion.⁷ Here, the letters do not contain specific, detailed information explaining the unusual influence or high impact that the Petitioner’s work has had in the overall field.

The Petitioner emphasizes that media coverage regarding her [redacted] role with [redacted] [redacted] demonstrates her impact on the industry.⁸ The Petitioner’s evidence included online articles published by *Forbes.com*, *Dialogue*, and the website of [redacted]. These articles are very similar in content and all three were authored by [redacted] [redacted] who the Petitioner identifies as one of her mentors. In the articles, [redacted] explains how the Petitioner adapted [redacted] mission to the unique challenges faced by [redacted] noting that her role as [redacted] “has been transformative” for the company by reshaping its rewards framework, replacing traditional pharmaceutical sales metrics with self-selected patient-impact targets, and connecting everything to [redacted]. In the article [redacted] writes that “[i]t is crucial that companies that want to follow [redacted]’s lead do so wholly by granting the [redacted] to lead and change from the heart of the business.” The articles indicate that the Petitioner’s leadership style and transformation efforts at [redacted] were highly effective and may serve as a useful example to other organizations. They also discuss the novelty of the [redacted] job title, noting that other organizations

⁷ See 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) appendix.

⁸ While we have focused our discussion on articles that discuss the Petitioner’s [redacted] role with [redacted] [redacted] we have reviewed all submitted articles. Other articles include an article regarding the Petitioner being assigned to [redacted], an article regarding her departure, and articles which discuss [redacted] pharmaceutical products.

may benefit from assigning such roles to senior leaders to recognize the value of [redacted] leadership. However, the published materials in the record do not state, and the record does not establish, that the Petitioner's [redacted] leadership style or the novel business strategies she implemented at [redacted] have already had a significant impact on other organizations in the field.

For all the reasons stated above, upon review we agree with the Director that the Petitioner has not established that she 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)

To meet the plain language requirements of this criterion, a petitioner must establish that they have performed in either a leading or critical role, and that the role has been for an organization or establishment (or a division or department of an organization or establishment) having a distinguished reputation. If a leading role, the evidence must establish that the petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.⁹

As noted, the record establishes that the Petitioner recently held the position of [redacted] and Managing Director of [redacted] and that she was the senior executive assigned to that entity.¹⁰ The Petitioner has submitted company information for both the [redacted] and its [redacted] subsidiary in support of her claim that the company has a distinguished reputation as a leading pharmaceutical company worldwide, and as the leading provider of cancer therapeutics in [redacted]

In determining that the Petitioner did not establish that she meets this criterion, the Director noted, in part, that the letters she provided from her employer “did not demonstrate how the [petitioner’s] role impacted or influenced the regional and national business industry in [redacted] . . . as a whole.” Based on this statement, it appears that the Director incorrectly applied a standard applicable to the criterion at 8 C.F.R. § 204.5(h)(3)(v). As noted above, a title, with matching duties, can support a determination that a role was “leading”; this criterion does not require a petitioner to demonstrate that their role impacted the industry. The Petitioner submitted sufficient evidence documenting her job title and duties to establish that she met this requirement as a managing director assigned to [redacted]. Further, we disagree with the Director’s determination that the record “does not contain information about any awards, recognition or achievements garnered by the organization” that would demonstrate its distinguished reputation. The Petitioner submitted media reports and evidence of industry awards sufficient to establish that the organization, including the [redacted] subsidiary, enjoys a distinguished reputation.

After reviewing all the evidence, we conclude that the Petitioner met her burden to establish that she meets the criterion at 8 C.F.R. § 204.5(h)(3)(viii) based on her most recent position as a senior executive with the Roche group of companies.

⁹ See 6 USCIS Policy Manual, supra, at F.2(B)(2) appendix (noting that Merriam-Webster's online dictionary defines “distinguished” as “marked by eminence, distinction, or excellence or befitting an eminent person”).

¹⁰ The record contains evidence that the Petitioner’s employment contract is with the [redacted] and that she accepted an international assignment with [redacted]

Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix).

To meet this criterion, a petitioner must demonstrate that their salary or remuneration is high relative to the compensation paid to others working in the field. The burden is on the petitioner to provide appropriate comparative evidence. Examples may include, but are not limited to, geographical or position-appropriate compensation surveys. Persons working in different countries should be evaluated based on the wage statistics or comparable evidence in that country, rather than by simply converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States.¹¹

The Director determined that the Petitioner “submitted copies of compensation reports in a foreign language which are not accompanied by English language translations,” and stated that such documents would not be considered. The Director further concluded that the Petitioner did not provide evidence of objective earnings data sufficient to establish that she has earned a high salary or other significantly high remuneration in relation to other similarly employed workers.

On appeal, the Petitioner submits additional evidence and maintains that the previously submitted evidence included English-language evidence demonstrating her past earnings. We agree that the Petitioner sufficiently documented her remuneration with [REDACTED]. A letter from [REDACTED] [REDACTED] Human Resources indicated that the Petitioner earned a base salary of CHF 364,332 in 2019. This letter was accompanied by English-language compensation statements and other documentary evidence of her earnings in the period between 2017 and 2019. Although the evidence included Venezuelan tax returns that were not accompanied by English translations, the record includes other relevant, probative evidence of the Petitioner’s past remuneration.

The record before the Director, however, did not include relevant comparative data to support the Petitioner’s claim that she commanded a high salary, or significantly high remuneration, in relation to others. As noted, persons working outside the United States should be evaluated based on the wage statistics or comparable evidence in the country of employment, rather than converting their salary to U.S. dollars and submitting comparative U.S. wage data. Here, the Petitioner’s salary was provided in Swiss francs, and she worked in both Venezuela and India during the period for which documentation of her earnings was provided. Rather than converting her salary to Venezuelan and/or Indian currency and providing compensation data from one or both of those countries, she converted it to U.S. dollars and provided data reflecting U.S. salaries for executives from online sources including *Study.com* and *PayScale*. For this reason, we agree with the Director’s determination that the Petitioner did not provide relevant comparative wage statistics to support her claim that she has commanded a high salary or other significantly high remuneration in relation to others in the field.

The Petitioner submits additional evidence on appeal. We note that this criterion was addressed in the Director’s RFE and the Petitioner had an opportunity to submit supplemental evidence, including “geographical or position appropriate compensation surveys,” prior to the denial. Where, as here, a Petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on

¹¹ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2) appendix.

appeal. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988).¹²

Accordingly, for the reasons discussed above, we conclude that the Petitioner's evidence did not establish that she satisfies this criterion.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is "extremely restrictive by design,"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"). *See also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation").

Here, the Petitioner has not shown that the significance of her work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered sustained national or international acclaim in the field, and she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

¹² The record on appeal includes the Petitioner's Indian Income Tax Return for Assessment Year 2019-20 which shows her annual earnings from [REDACTED]. The "gross salary" figure reported is INR80,674,391, of which INR37,273,831 was paid in salary (with the remainder categorized as "value of perquisites"). The Petitioner also provides comparative wage data for CEO salaries for India from three online sources and notes in her brief that one of those sources (*PayScale*) indicates that the "average salary for a CEO in India" is INR35,947,500. We observe that the Petitioner's base salary, as reported on her tax return, is only slightly above this reported average salary and the evidence, even if submitted prior to the denial of the petition, is not sufficient to establish that she earns a "high salary" in relation to others in her field. Although she provided evidence of her total remuneration, the record does not contain evidence that would allow a comparison of her total remuneration with that of others working in the same type of position in India and therefore does not support a determination that her total remuneration is "significantly high."

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.