

USCIS Update

Oct. 19, 2009

USCIS Reminds Applicants for Travel Documents to Apply Early

WASHINGTON — U.S. Citizenship and Immigration Services (USCIS) reminds individuals that they must obtain Advance Parole – permission to reenter the United States after traveling abroad – from USCIS before traveling abroad if they have:

- been granted Temporary Protected Status (TPS);
- a pending application for adjustment of status to lawful permanent resident (LPR);
- a pending application for relief under section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA 203);
- a pending asylum application; or
- a pending application for legalization.

To obtain Advance Parole, individuals must file [Form I-131](#), Application for Travel Document, which is available under “Forms” on USCIS’ Web site.

Advance Parole is permission to reenter the United States after traveling abroad. Advance Parole is an extraordinary measure used sparingly to allow an otherwise inadmissible individual to enter the United States due to compelling circumstances. By law, certain individuals must apply for a travel document and have Advance Parole approved before leaving the United States. Attempts to reenter the United States without prior authorization may have severe consequences since individuals requiring advance parole may be unable to return to the United States and their pending applications may be denied or administratively closed.

Applicants planning to travel abroad should plan ahead since Advance Parole processing times take about 90 days, depending on the USCIS office location. Instructions for filing Form I-131 provide details on where to mail travel document applications and should be followed carefully to avoid delay. For more information on Advance Parole see [How Do I Get a Travel Document?](#) and instructions for Form I-131.

Note:

Under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, aliens who depart the United States after being unlawfully present in the United States for certain periods can be barred from admission to lawful permanent resident status, even if they have obtained Advance Parole. Aliens who have been unlawfully present in the United States for more than 180 days, but less than one year, are inadmissible for three years; those who have been unlawfully present for one year or more are inadmissible for 10 years. Aliens who are unlawfully present, then depart the United States and subsequently reenter under a grant of parole, may still be ineligible to adjust their status.

Individuals who have been admitted as refugees or granted asylum, including those who are applying for adjustment of status, do not need to obtain Advance Parole. Instead, these individuals should apply for a Refugee Travel Document using Form I-131 and comply with applicable application requirements, such as biometric processing, prior to leaving the United States.

Lawful permanent residents who obtained such status as a result of being a refugee or asylee in the United States may also apply for a Refugee Travel Document. For more information on Refugee Travel Documents please see [How Do I Get a Refugee Travel Document?](#)

Asylum applicants, asylees, refugees and lawful permanent residents who obtained such status based on their asylum or refugee status are subject to special rules with regard to traveling outside the United States. Such individuals are encouraged to review USCIS' Fact Sheet [Traveling Outside the United States as an Asylum Applicant, an Asylee, or a Lawful Permanent Resident Who Obtained Such Status Based on Asylum Status](#).

Before making any plans to travel abroad, all individuals with pending applications for adjustment of status, relief under NACARA 203, or asylum are urged to consult an immigration attorney or immigration assistance organization accredited by the Board of Immigration Appeals, or call the USCIS Customer Service Center at 1 (800) 375-5283.

For more information on USCIS and its programs, visit www.uscis.gov.

– USCIS –

Fact Sheet Oct. 19, 2009

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Introduction

Individuals must obtain Advance Parole – permission to reenter the United States after traveling abroad – from USCIS before traveling abroad if they have:

- been granted Temporary Protected Status;
- a pending application for adjustment of status to lawful permanent resident;
- a pending application for relief under section 203 of the Nicaraguan Adjustment and Central American Relief Act (NACARA 203);
- a pending asylum application; or
- a pending application for legalization.

Advance Parole is permission to reenter the United States after traveling abroad. Advance Parole is an extraordinary measure used sparingly to allow an otherwise inadmissible individual to enter the United States due to compelling circumstances. By law, certain individuals must apply for a travel document and have Advance Parole approved before leaving the United States. Attempts to reenter the United States without prior authorization may have severe consequences since individuals requiring Advance Parole may be unable to return to the United States and their pending applications may be denied or administratively closed.

In addition, asylees and lawful permanent residents who obtained such status based on their asylum status are subject to special rules with regard to traveling outside of the United States. This fact sheet describes the relevant statutes and regulations regarding traveling outside of the United States, as well as the consequences that could result if an asylee or a lawful permanent resident who obtained such status based on his or her asylum status returns to his or her country of claimed persecution.

Travel Outside of the United States

To obtain Advance Parole, individuals must file [Form I-131](#), Application for Travel Document, which is available under “Forms” on USCIS’ Web site. For more information on Advance Parole see [How Do I Get a Travel Document?](#) and instructions for Form I-131.

Asylees (those who have been granted asylum) and refugees may travel abroad with prior approval in the form of a refugee travel document. Individuals seeking such a document should refer to [How Do I Get a Refugee Travel Document?](#) A refugee travel document is valid for one year and is issued to an asylee or refugee to allow his or her return to the United States after temporary travel abroad. Generally, an asylee or refugee should obtain the refugee travel document prior to leaving the United States, though the applicable regulations also allow the issuance of a refugee travel document to an individual abroad under certain circumstances. Like Advance Parole, a refugee travel document does not guarantee admission into the United States. Rather, all asylees and refugees returning to the United States must undergo inspection by a U.S. Customs and Border Protection (CBP) immigration inspector.

Lawful permanent residents who obtained such status based on their asylum or refugee status may also travel abroad with refugee travel documents.

Possible Consequences of Using Advance Parole After Being Unlawfully Present in the United States

Under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, aliens who depart the United States after being unlawfully present in the United States for certain periods can be barred from admission to lawful permanent resident status, even if they have obtained Advance Parole. Aliens who have been unlawfully present in the United States for more than 180 days, but less than one year, are inadmissible for three years; those who have been unlawfully present for one year or more are inadmissible for 10 years. Aliens who are unlawfully present, then depart the United States and subsequently reenter under a grant of parole, may still be ineligible to adjust their status.

Possible Consequences of Returning to the Country of Claimed Persecution

Section 208.8(b) of Title 8 of the Code of Federal Regulations provides that an asylum *applicant* who leaves the United States pursuant to Advance Parole and returns to the country of claimed persecution shall be presumed to have abandoned his or her asylum application, unless the applicant is able to establish compelling reasons for the return. Therefore, if an asylum applicant returns to his or her country of claimed persecution pursuant to Advance Parole, he or she should be prepared to explain the reason for the return.

A grant of asylum may be terminated for specific reasons as listed in INA § 208(c)(2). Returning to one's country of claimed persecution may be relevant to a number of termination grounds. For instance, asylum status could be terminated based on a fundamental change in circumstances in the asylee's country of persecution. Termination of asylum or refugee status could also occur due to fraud in the asylum or refugee application such that the individual was not eligible for asylum or refugee status. Return to the country of feared persecution can, in some circumstances, be considered evidence that the asylee's alleged fear of persecution is not genuine. In addition, termination of asylum status could occur if an "alien has voluntarily availed himself or herself of the protection of the alien's country of nationality . . . by returning to such country with permanent resident status or the reasonable possibility of obtaining such status with the same rights and obligations pertaining to other permanent residents of that country."

Accordingly, an asylee or refugee may be questioned about why he or she was able to return to the country of claimed persecution and, in some circumstances, may be subject to proceedings to terminate asylum or refugee status.