U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 38639301

Date: SEP. 26, 2025

Appeal of Service Center Operations (SCOPS) Decision

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

The Petitioner, a judge, 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.

Service Center Operations (SCOPS) 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. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals with 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, provided that the individual seeks to enter the United States to continue work in the area of extraordinary ability, and the individual'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 international 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

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 earned a bachelor's degree in jurisprudence from [redacted] in Armenia in 2000 and a master's degree in economics from [redacted] in 2011. He claims eligibility due to work as a judge in the [redacted] from 2008 to 2018 and as a Judge of the [redacted][1] in 2018. He seeks to study and work in the legal field in the United States.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner initially claimed to have satisfied eight of these criteria, relating to participation as a judge of the work of others; performance in a leading or critical role for organizations or establishments that have a distinguished reputation; receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor; membership in associations which require outstanding achievements of their members; publication of material about the alien in professional publications or major media; original contributions of major significance; authorship of scholarly articles; and high salary or other significantly high remuneration.

SCOPS concluded that the Petitioner met the criteria relating to participation as a judge of the work of others and performance in a leading or critical role for organizations or establishments that have a distinguished reputation. On appeal, the Petitioner asserts that he also meets four additional criteria relating to receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor; membership in associations which require outstanding achievements of their members; original contributions of major significance; and high salary or other significantly high remuneration.

[1] The Petitioner has not submitted evidence clearly explaining the geopolitical situation in Artsakh. Publicly available information indicates that it is also known as [redacted] *See, e.g.*, Brittanica, [redacted] *region, Azerbaijan*, https://www.britannica.com/place[redacted] Both terms are used throughout the evidence the Petitioner provides. In an effort to remain consistent with that evidence, we also use both terms in our decision. As we will discuss later, although the Petitioner refers to this location as the Republic of Artsakh or the Republic of [redacted] he has not met his burden of establishing that it is a nation or republic rather than a region.

Upon review of all of the evidence in the record, we disagree with SCOPS' determination that the Petitioner met the criterion relating to a leading or critical role for organizations or establishments that have a distinguished reputation. We will withdraw that conclusion. We also conclude upon de novo review that the Petitioner has met the criterion relating to original contributions of major significance. However, the Petitioner still has not demonstrated on appeal that he meets at least three criteria, as he claims.

A. Evidentiary Criteria

> *Evidence that the alien 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).

We withdraw SCOPS' determination that the Petitioner has met this criterion. The Petitioner claims eligibility based on his role as a Judge of the [redacted] since 2018, Chairman of the Ethics and Disciplinary Commission of the General Assembly of Judges, and Member of the Supreme Judicial Council. He asserts that these roles are indicative of his "critical role in shaping the judiciary of Artsakh, a distinguished national institution."

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) calls for "evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." The role may be shown to be leading or critical for a division or department of an organization or establishment, or for the organization or establishment overall. Evidence of a leading role should show that the alien was a leader for the claimed component, and a job title with matching duties may help to establish that a role was leading. For a critical role, evidence should show that the alien has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities or those of a division or department of the organization or establishment. In determining whether the organization or establishment, or a department or division thereof, has a distinguished reputation, relevant factors include its size, longevity, scale of its customer base, and relevant media coverage. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), www.uscis.gov/policy-manual.

As supporting evidence, the Petitioner has submitted reference letters, a copy of his work history record confirming that he held the claimed roles, and letters from colleagues and a lawyer who appeared before him discussing the quality of his work and the importance of his judicial decisions. Three of the letters contain nearly identical paragraphs regarding the Petitioner's "direct participation in cases considered under the cassation procedure, as well as the drafting of judicial acts resulting from these cases," his "involvement in constitutionally significant cases before the [redacted]," and his "excellent interpersonal skills and the ability to work within the judicial system." The identical wording strongly suggests a common author, whom we can infer to be the Petitioner himself. *Cf. Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source). He also submits an article confirming his appointment to the [redacted] and another about a decision issued by the [redacted] as well as copies of decisions which list the Petitioner as rapporteur but do not indicate the significance of that role. Two other articles confirm the Petitioner's prior role as a judge in the [redacted] but indicate that the court was led or chaired by another individual. Although the Petitioner has submitted evidence to

show he worked as a judge in both courts, it does not indicate that he held a leading or critical role in those organizations or establishments.

The Petitioner also provides a letter from the Chief Justice of the [redacted] who states that the Petitioner was an associate justice and reporting judge who drafted decisions and contributed in important ways to establishing precedents. The Chief Justice also states that the Petitioner was Chairman of the Ethics and Disciplinary Committee from 2018 to 2022, during which time he established an ethical framework for all judges; and was a member of the Supreme Judicial Council, whose responsibilities include judicial nominations, approvals, promotions and disciplinary and criminal proceedings against judges. The Chief Justice indicates that the Petitioner's accomplishments "were not merely supportive—they were foundational to the [redacted] operations and reputation." However, the Petitioner also has not shown that the Ethics and Disciplinary Commission of the General Assembly of Judges, or Supreme Judicial Council have a distinguished reputation. Aside from recommendation letters with general information about his participation, the Petitioner has not provided evidence to show the size, longevity, scale of customer base, or relevant media coverage relating to either of those organizations. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner provides an article about the judicial system of Artsakh indicating that the "Supreme Court is the highest judicial body of" [redacted] However, as we noted above, the Petitioner has not met his burden of establishing the status of [redacted] as a nation. An article he submits states that "the judicial mechanisms operating in Artsakh are in no way inferior to *some recognized countries*" and that the "establishment and strengthening of the judicial system and the judicial power itself is a very important step on *the path to international recognition* of Artsakh . . . ." (Emphasis added). A 2022 article he provides about judicial reforms similarly acknowledges the "unrecognized status of the Republic of Artsakh . . . ." Furthermore, publicly available information reflects that [redacted] is a region internationally recognized as part of the country of Azerbaijan. *See, e.g.,* CIA, *The World Factbook: Azerbaijan*, https://www.cia.gov/the-world-factbook/countries/azerbaijan/; U.S. Department of State, *2024 Country Reports on Human Rights Practices: Azerbaijan*, https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/azerbaijan/. Publicly available information also indicates that the countries of Azerbaijan and Armenia have filed complaints against each other before international courts but does not reflect that the Supreme Court of Artsakh was involved. *See, e.g.*, American Society of International Law, *Legal Battles Over* [redacted] *A Review of the Jurisprudence to Date*, https://www.asil.org/insights/volume/28/issue/11.

The 2022 article the Petitioner submits on judicial reforms also reflects a broad lack of regard for the Supreme Court, stating that "the court is perceived by broad segments of society as a body that performs a punitive function and not as a structure that administers justice, and the judiciary as a supplement to the legislative and executive branches dependent on the political will and not as a force that res[pects] them," and that "there is no demand for participation in" the judicial system, whose "number of problems has increased significantly . . . ." This conflicts with the Petitioner's claim that the Supreme Court is an organization with a distinguished reputation, and the evidence he has submitted does not indicate that the size, longevity, scale of customer base, or media coverage relating to [redacted] are such that it has a distinguished reputation. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Therefore, the Petitioner has not met this criterion.

Documentation of the alien'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).

The regulation at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." We first determine whether the alien is the recipient of prizes or awards, and then whether the award is nationally or internationally recognized and was granted based upon excellence in the alien's field of endeavor. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner claims that he meets this criterion based on his receipt of the [redacted] in 2015 by decree of the President of [redacted]. He has submitted a photograph of the medal he received and an accompanying certificate. He also provides a translation of the Law of the Republic of Armenia on State Awards and Honorary Titles, which indicates the [redacted] may be awarded "for outstanding contributions in state and public-political activities, as well as for significant services in the fields of diplomacy, law, and political science"; "to state, public, and political figures, scientists, diplomats, and lawyers"; and "to individuals who have made significant contributions to the international recognition of the Armenian Genocide, the condemnation and prevention of genocides, as well as the fight against denialism."

In response to a request for evidence (RFE) from SCOPS, he submitted a letter from a representative in the Office of the President of [redacted] stating that the [redacted] which was "established under [redacted]'s legal framework and mirroring the Republic of Armenia's . . . Law 'On State Awards,' is the highest state honor bestowed by [redacted] for exceptional achievements in areas such as law, diplomacy, and public service. Its conferral reflects national recognition of an individual's excellence within the integrated legal and governmental sphere of [redacted]." Further, the letter states that the award process "is rigorous and selective, underscoring its prestige (nomination, review and recommendation and presidential decree)." With regard to the Petitioner in particular, the letter states that "his significant accomplishments in legal science were first reviewed and endorsed by the Chairman of [redacted]'s highest judicial authority, who submitted a formal petition to the President," whose administration then evaluated and approved the Petitioner's receipt of the award. The letter also specifies that "[s]ince its establishment in 1993, only 208 individuals have received this prestigious award, 25 of whom were recognized specifically for their contributions to the field of law."

On appeal, the Petitioner provides copies of websites showing the [redacted] was previously awarded by the government of Armenia to members of the U.S. House of Representatives, Armenia's Consul General to [redacted] and Chairman of the Armenian Revolutionary Federation Western US Central Committee. He also submits copies of the website of the President of the Republic of Armenia, stating that the [redacted] "is awarded for outstanding state and social-political activities, as well for significant services in the spheres of diplomacy, law and political science." He states in his brief on appeal that these articles demonstrate the "international reach" and "geopolitical significance" of the award.

The record reflects that the [redacted] is a state award in the Republic of Armenia but that his medal was awarded by the President of [redacted]. Although the letter from the representative of the Office of the President of [redacted] states that the award as granted by

[redacted] mirrors the Armenian law establishing the award, the Petitioner has not submitted information about the referenced "legal framework" under which the [redacted] version was established and granted; instead, he has provided a copy of the law from Armenia. Despite his assertion on appeal that the "legal integration of" Armenia and [redacted] "extends the medal's recognition across both jurisdictions," the evidence the Petitioner has submitted in support of this assertion is not sufficient. An article indicates that the President and judges from [redacted] met with judicial officials from Armenia to discuss reforms in the Artsakh judicial system and to sign a memorandum of cooperation between the two judicial systems, but this does not provide information about a common legal system. He also refers to 2015 and 2016 decisions from the European Court of Human Rights "recogniz[ing] Armenia's authority over events in [redacted] and concluding that "Armenia exercises 'significant and decisive influence' over [redacted], integrating the two entities in 'virtually all-important matters." However, these decisions do not clearly support the Petitioner's assertion that the Armenian law on state awards is applicable in both jurisdictions. Also, this claim appears to conflict with the letter from the office of the President stating that the [redacted] the Petitioner received was "established under [redacted]'s legal framework and mirroring" Armenia's law about the award. And the Petitioner has not addressed any political changes to the Armenian authority in [redacted] since 2016. The Petitioner has not submitted evidence clearly explaining the relationship between the government of Armenia and [redacted] such that the award may be considered important in both locales.

Although he disputes SCOPS' determination that the award he received appears to be regional or local in nature, he does not provide sufficient evidence to the contrary; as explained above, evidence he has provided as well as publicly available information reflects that [redacted] is a region. *See, e.g.,* CIA, *The World Factbook: Azerbaijan*; U.S. Department of State, *2024 Country Reports on Human Rights Practices: Azerbaijan;* Brittanica, [redacted] *region, Azerbaijan.* As such, the Petitioner has not met his burden of establishing that the award he received was nationally or internationally recognized, as 8 C.F.R. § 204.5(h)(3)(i) requires.

Furthermore, a government agency's issuance of an award does not alone establish a prize's national recognition. *See Krasniqi v. Dibbins*, 558 F. Supp. 3d 168, 183 (D.N.J. 2021) ("[A]s reflected in the regulation's plain text, the focus is on the award, not the awarding organization.") (emphasis in original). The Petitioner must show how others beyond the Armenian or [redacted] governments viewed his award. *See Visinscaia*, 4 F. Supp. 3d at 136 ("Without evidence of how a larger audience viewed Plaintiff's awards, there was no way for the agency to evaluate whether those awards were recognized widely enough to satisfy this criterion.") He states that the award is "recognized across [Armenia] and [redacted] as a pinnacle of achievement in law" and lists website addresses to articles he claims "confirm[the] caliber" of the award, but the burden is on the Petitioner to provide copies of this evidence for our review. Accordingly, the evidence does not demonstrate that the Petitioner meets this criterion.

> *Documentation of the alien'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).

The regulation at 8 C.F.R. § 204.5(h)(3)(ii) calls for "documentation of the alien's membership in associations in the field for which classification is sought." In addition, the association must require "outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." Once membership in a qualifying association has been established, we determine whether the association requires those at the alien's level of membership to have attained outstanding achievements in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner claims eligibility for this criterion based on his membership in a nongovernmental organization called [redacted], the [redacted] the Ethics and Disciplinary Committee, and the Supreme Judicial Council. Regarding the [redacted], the Petitioner states it is "a professional association exclusive to judges with exceptional records" and that "[a]dmission requires evaluation by senior judicial figures, ensuring only those with distinguished careers are accepted." He provides a letter from the president of the organization, who states that the Petitioner applied and became a member in 2010 and also served on the editing board of the magazine published by [redacted] The letter does not specify the requirements for becoming a member. Similarly, a letter from another judge on the [redacted] H-K-, confirms the Petitioner's role on the editorial board of the organization's publication but does not discuss the admission requirements for [redacted]

Regarding the [redacted] the Petitioner states that his appointment as a justice was the result of a "rigorous selection process" as judged by experts and the criteria "exceed basic employment standards, reflecting exceptional merit." As supporting evidence, he refers to the recommendation letter from the Chief Justice and an excerpt from the law relating to judicial appointments. However, the Petitioner's role on the [redacted] was employment and he has not shown that it can be considered an association. Examples of associations in the field requiring outstanding achievement of their members may include, for example, professional associations or fellowship with certain organizations or institutions. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.B(3). He has provided evidence including articles indicating that the Supreme Court is a judicial body established under the constitution of [redacted] without indication that it is an association in his field requiring outstanding achievements of its members. 8 C.F.R. § 204.5(h)(3)(ii). Similarly, with regard to the Supreme Judicial Council, the Petitioner asserts he was elected to this constitutional body because he met the minimum of five years of judicial experience and "peer recognition of exceptional achievements." H-K-'s letter states the Supreme Judicial Council "is an independent state body that guarantees the independence of courts and judges." The Petitioner does not submit evidence that it is a professional association in his field. 8 C.F.R. § 204.5(h)(3)(ii).

As for the Ethics and Disciplinary Committee, the Petitioner claims that membership "is limited to one judge per judicial tier (first instance, appellate, Supreme Court), elected by the General Assembly of Judges . . . via secret ballot" and that he later became Chairman due to "expert judgment of [his] qualifications." He references a letter from G-H- confirming his role as Chairman and an excerpt of the judicial code relating to election and duties of members of the Ethics and Disciplinary Committee. The letter from H-K- similarly indicates that he was nominated as a member and elected Chairman. But this evidence does not mention the requirements to become a member.

Furthermore, a requirement based on a certain level of experience or employment in a particular occupation is not in itself sufficient to show that membership in an association is based on outstanding

achievements. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1) (indicating that relevant factors that may lead to a conclusion that the person's membership in the association(s) was not based on outstanding achievements in the field include, but are not limited to, instances where the person's membership was based solely on the following factors (by themselves or in the aggregate): a level of education or years of experience in a particular field; the payment of a fee or by subscribing to an association's publications; and a requirement, compulsory or otherwise, for employment in certain occupations, as commonly seen with union membership or guild affiliation for actors); *see also Soni v. United States*, No. CV 11-2431, 2016 WL 4154137, at *4 (upholding a certification merely required individuals to pay a fee and undergo an application process, possess education and experience, and take and pass a multiple-choice examination, did not reflect outstanding achievements). Accordingly, the Petitioner has not met this criterion.

> *Evidence of the alien'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).

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for "evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A petitioner may show that their 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. *See Visinscaia*, 4 F. Supp. 3d at 134-35. Relevant evidence of the significance of an original contribution may include, but is not limited to:

- Published materials about the significance of the alien's original work;
- Letters providing details about how the alien's original work has been significant in the field;
- Citation of the alien's published scholarly work at a level indicative of major significance; and
- Patents or licenses deriving from the alien's work or evidence of its commercialization.

See generally 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner claims that he meets this requirement due to his proposals for legislative and judicial reforms and constitutional amendments in Artsakh, as well as his precedent decisions during his role on the [redacted] Upon de novo review, the Petitioner has met this criterion.

SCOPS determined that the Petitioner had not submitted evidence of widespread discussion or media coverage of his work on judicial and legislative reforms to show that he made original contributions of major significance. Similarly, SCOPS concluded that the letters of support discussing his rulings as a judge did not establish that his work in the field of law was a contribution of major significance rather than limited to his employer and their customers or clients.

On appeal, he argues that his precedent decisions "introduced novel legal interpretations widely adopted" in the legal system of [redacted] and his efforts in other areas have "strengthened judicial independence," "enhanced judicial accountability," and "produced award-winning legal scholars." He references previously-submitted evidence, including copies of [redacted] decisions for which he was the reporting judge, and letters of support. In one such letter, N-N-, the Chief Justice

of the [redacted] indicates that the Petitioner has drafted precedent decisions that "reshaped [redacted]'s constitutional landscape" and resolved critical legal issues in criminal and civil cases. N-N- explains that "[d]raft decisions are prepared by the reporting judge, who submits them for review and discussion" by the other judges on the [redacted] and that "the reporting judge is rightfully regarded as the principal author of the court's decisions, bearing substantial responsibility for their legal rigor and impact." She states that the Petitioner's primary duty has been as a reporting judge and his precedent decisions "are provided to lower courts, which strictly adhere to them," and "are accessible to the legal community for reference in applications, claims, and complaints and are published as required by law." Further, N-N- indicates that the Petitioner "developed a comprehensive ethics framework for all [redacted] judges," work which "was critical in maintaining the judiciary's integrity . . . ." News articles about a [redacted] decision in which the Petitioner was rapporteur also reflects that it decided a constitutional matter, while another article confirms that the Supreme Court "ensures the supremacy of the Constitution and the uniform application of the law" in [redacted]

A recommendation from the Chief of the Law Faculty at [redacted], where the Petitioner has worked on the faculty, states that the Petitioner has supervised student work and "has also authored nearly three dozen dissenting opinions and nearly two dozen professional opinions on other works." A lawyer who has appeared before him states the Petitioner has authored special opinions that the [redacted] has applied in "all subsequent decisions" and has issued precedent decisions which "provide essential guidance for legal practitioners, enhancing the predictability and quality of judicial processes." The Chairman of the State and Legal Affairs Committee of the National Assembly states that in addition to his role on the [redacted], during which he authored precedent decisions on constitutional matters, the Petitioner reviewed draft legislation relating to the judiciary and introduced legislation in Armenia. D-A-, Advisor to the [redacted] in Armenia, asserts that the Petitioner developed the law through his role on the [redacted] where he authored most of the precedent decisions between 2018 and 2023. The Petitioner also submits news articles about his appointment to the [redacted] decisions by the [redacted] on constitutional matters, and about the Supreme Court and judicial system in general.

The Petitioner has submitted letters and other evidence providing details about how his original work authoring precedent decisions of the [redacted] has been significant in the legal field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). As the reporting judge on many [redacted] decisions, he has decided constitutional questions, influenced later decisions by the [redacted] and established precedent significantly impacting lower courts and the law of [redacted] Accordingly, the Petitioner has met the criterion at 8 C.F.R. § 204.5(h)(3)(v).

> *Evidence that the alien 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).

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) calls for "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field." A credible employment contract or job offer may establish that an alien "has commanded" such salary or remuneration, as may evidence of past earnings such as tax returns and pay statements. Comparative wage or remuneration data that is appropriate for the alien's occupation and location

should be submitted to establish that their compensation is high relative to others working in the field. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

The Petitioner argues his eligibility for this criterion based on his salary as a [redacted] judge. He states that he receives the highest remuneration possible within the judicial system of [redacted] an amount about 15 percent higher than that of a first-instance court judge with the same number of years of service and 4.5 percent higher than that of an appellate court judge. He also compares his salary to that of prosecutors, investigators, and other high-level state employees and asserts that his earnings "reflect[] the high status and responsibility of [his] role." On appeal, he provides data on average wages in Armenia between 1980 and 2023 and average monthly wages in the public versus private sector. He also submits a 2023 data sheet listing his income and property as a high-ranking official, showing in relevant part that his income in Armenian drams was 10,476,960. He claims his salary "exceeds benchmarks within the judicial field and the broader Armenian economy." He provides calculations explaining that he receives a "base salary multiplier" resulting in increases over the salaries of judges with less experience or working in lower courts, plus additional increases for years of service, stating that his "salary is the highest within the [redacted] judicial system . . . ." He also lists comparisons between his salary and average wages in Armenia. Although the Petitioner provides data about average wages in Armenia, he also states on appeal that his salary as a [redacted] judge is governed by the [redacted] law. He does not provide documentary evidence on average salaries [redacted]

Additionally, the data he submits relates generally to average wages across the population and among the public and private sectors, but he does not provide specific data about the wages of other judges in [redacted] The plain language of this criterion requires a comparison against "others in the field." Salary information for those performing work in a related but distinct occupation with different responsibilities is not a proper basis for comparison. Additionally, average salary levels are not comparable when evaluating whether a salary was high "in relation to others in the field." *E.g.*, *Kinuthia v. Biden*, 702 F. Supp. 3d 5, 11 (D. Mass. 2023) (finding USCIS reasonably concluded a filing party's evidence comparing average and median salaries was insufficient to establish he commanded a high salary in relation to others in the field).

The Petitioner must present evidence of objective earnings data showing that he has commanded a "high salary" or "significantly high remuneration" in comparison with those performing similar work during the same time period. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713–14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444–45 (N.D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). Based on these deficiencies in the evidence, the Petitioner has not submitted documentation that meets the plain language requirements of this criterion.

III. CONCLUSION

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to

show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.