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110TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
110–743

FOR THE RELIEF OF CORINA DE CHALUP TURCINOVIC

JULY 8, 2008.—Referred to the Private Calendar and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 5030]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5030) for the relief of Corina de Chalup Turcinovic, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5030 would make Corina de Chalup Turcinovic eligible for adjustment of her status to that of a permanent resident.

69–007

BACKGROUND AND NEED FOR THE LEGISLATION

Corina Turcinovic was born "Corina de Chalup" in Perigueux, France on April 8, 1964. She entered the United States through the Visa Waiver Program on February 10, 1990, after receiving news that her then-fiancé, Marin Turcinovic, had been struck by an automobile driven by a drunk driver. His spinal cord was severely damaged in the accident, and he was left with total quadriplegia when his doctors failed to correctly diagnose the extent of his injuries, including broken vertebrae in his neck.

Within weeks of the accident and subsequent paralysis, Mr. Turcinovic was transferred to a rehabilitation center in Chicago. Ms. Turcinovic traveled with him as her fiancé's injuries left him completely dependent on her for everything. Permanently paralyzed from the neck down, Mr. Turcinovic was dependent on a ventilator to breathe and he required 24-hour medical care.

On April 13, 1990, 2 months after her entry into the country, Ms. Turcinovic filed an application to the former Immigration and Naturalization Service (INS) for an extension of her temporary stay, which was set to expire on May 9, 1990, but her application was denied on September 22, 1990 because Ms. Turcinovic was technically ineligible to extend her stay under the provisions of the Visa Waiver Program. Ultimately, however, the extenuating circumstances in her case led the INS to grant Ms. Turcinovic a stay of deportation on humanitarian grounds, which allowed her to stay in the United States to care for her fiancé. Such stays of deportation were renewed on an annual basis over the next 10 years.

In 1996, Mr. Turcinovic and Ms. Turcinovic were finally married. Two years later, on September 30, 1998, Mr. Turcinovic became a lawful permanent resident of the United States. He filed a petition to adjust his wife's immigration status, which was approved on April 12, 2001. As Mr. Turcinovic was not a citizen, however, Ms. Turcinovic was not eligible to immediately adjust her status. She was required to wait for many years for a visa to become available as a "second preference" beneficiary.

Five years later, on September 4, 2003, Mr. Turcinovic filed for naturalization, which would allow him to adjust his wife's status immediately. A medical certification of disability was included with the application stating that Mr. Turcinovic was paralyzed, could not breathe without the aid of a ventilator, and could not leave his home. Despite this certification, which made it clear that he could not physically appear to be interviewed, Mr. Turcinovic received a fingerprint appointment notice about 2 weeks later.

Mr. Turcinovic's attorney immediately contacted United States Citizenship and Immigration Services (USCIS) to explain that it would be impossible for Mr. Turcinovic to comply with the fingerprint appointment. USCIS responded in writing 2 months later stating that an officer would visit Mr. Turcinovic at his home to further process his application. Immediately upon receipt, Mr. Turcinovic's attorney contacted the Application Support Center supervisor to schedule the home visit.

Three months later, however, Mr. Turcinovic received notice that his naturalization application had been denied due to abandonment because of his failure to appear for fingerprinting. Mr. Turcinovic's attorney again contacted USCIS and filed a motion to reopen Mr.

Turcinovic's application. The motion was granted on March 8, 2004 because service records indicated that he was unable to appear for fingerprinting, interview, and oath ceremony. Seven days later, however, Mr. Turcinovic received another fingerprint appointment notice. Unfortunately, he died on April 29, 2004 before he could be naturalized and petition as a citizen to adjust his wife's immigration status.

After Mr. Turcinovic's death, Ms. Turcinovic was unsure what to do with respect to her immigration status. After having lived exclusively in the United States for 14 years to care for her quadriplegic husband, she had come to know this country as her home. She owned a home here and almost everyone she was close to was here. She thus failed to seek additional stays of deportation, and on December 28, 2007, Immigration and Customs Enforcement (ICE) agents arrested her at her home and took her to an ICE detention center.

This private bill presents the only option for Ms. Turcinovic to remain in the United States. If Mr. Turcinovic had become a United States citizen prior to his death, he would have been able to adjust her status immediately, but agency error prevented that.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 5030.

COMMITTEE CONSIDERATION

On February 13, 2008, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill, H.R. 5030, favorably reported, without amendment, by voice vote, a quorum being present. On May 14, 2008, the Committee met in open session and ordered the bill, H.R. 5030, favorably reported without amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 5030.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5030, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2008.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5030, a bill for the relief of Corina de Chalup Turcinovic.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

PETER R. ORSZAG,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 5030—A bill for the relief of Corina de Chalup Turcinovic.

H.R. 5030 would make Corina de Chalup Turcinovic eligible for permanent residence in the United States. CBO estimates that enacting this legislation would have no significant impact on the Federal budget.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5030 would make Corina de Chalup Turcinovic eligible for adjustment of her status to that of a lawful permanent resident.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article 1, section 8, clause 4 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5030 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Permanent Resident Status for Esther Karinge. Subsection (a) provides that, notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Corina de Chalup Turcinovic is eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

Subsection (b) provides that if Corina de Chalup Turcinovic enters the United States before the filing deadline specified in subsection (c), she must be considered to have entered and remained lawfully and, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

Subsection (c) provides that subsections (a) and (b) apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

Subsection (e) provides that, upon the granting of an immigrant visa or permanent residence to Corina de Chalup Turcinovic, the Secretary of State must instruct the proper officer to reduce by one, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

Subsection (e) provides that the natural parents, brothers, and sisters of Corina de Chalup Turcinovic must not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

AGENCY VIEWS

The comments of the Department of Homeland Security on H.R. 5030 are as follows:

Office of Congressional Relations

U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536

U.S. Immigration and Customs Enforcement

APR 25 2008

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship,
Refugees, Border Security, & International Law
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

In response to your request for a report relative to H. R. 5030, private legislation for the relief of Corina De Chalup Turcinovic, enclosed is a memorandum of information concerning the beneficiary.

The bill provides that the beneficiary shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act or for adjustment of status to lawful permanent resident.

We hope the information provided is useful. Please do not hesitate to call me if you have additional questions.

Sincerely,

Jamie E. Zuieback
Director
Office of Congressional Relations

Enclosure

Department of Homeland Security
Immigration and Customs Enforcement
Memorandum of Information for H.R. 5030, 110th Congress

Ms. Corine Nathalie De Chalup Turcinovic (A 73 013 886) is the beneficiary of H.R. 5030, introduced by Rep. Daniel Lipinski (D-IL) on January 16, 2008. Ms. De Chalup Turcinovic is a native and citizen of France, who was born on April 8, 1964. Her father is a native and citizen of France and resides in Paris, France. Her mother has dual citizenship in Spain and France and resides in Perigueux, France. She has one adult sister, a native and citizen of France, who resides in Berlin, Germany.

Ms. De Chalup Turcinovic attended school in France. She received the equivalent of a bachelor's degree in International Tourism and was employed as a travel coordinator in France. She has no employment in the United States. She receives monthly income from a financial trust valued in excess of $2.5 million and has ownership of her house and a 1999 Jeep Grand Cherokee.

Ms. De Chalup Turcinovic is the widow of Marin Turcinovic. Marin entered the United States on January 31, 1990 at New York City, New York to perform as a member of a band. Marin was authorized to remain until March 25, 1990. Eight days after arriving in the U.S., Marin was struck by an automobile. Marin suffered severe spinal cord injuries, which rendered him a ventilator-dependent quadriplegic confined to a bed.

Ms. De Chalup Turcinovic was notified of Marin's accident and immediately made arrangements to travel from France to the United States. The beneficiary first entered the United States on February 10, 1990, at New York, New York. She was admitted as a Visa Waiver applicant and authorized to remain until May 9, 1990. Marin required 24 hour a day care for his survival. An insurance settlement ultimately provided him with a specially modified house in Chicago, as well as lifetime medical and rehabilitative care. Ms. De Chalup Turcinovic remained at Marin's side as his primary caregiver for fourteen years until he passed away on April 29, 2004.

On August 2, 1994, Ms. De Chalup Turcinovic was placed into removal proceedings. She was ordered deported, but released on an order of supervision due to the circumstances of Marin's health. She was subsequently granted stays of deportation annually thereafter until August 8, 2004.

In 1998, Senator Durbin sponsored private bill legislation (S.1916, 105th Congress) which would grant Marin Turcinovic and Ms. De Chalup Turcinovic permanent resident status. The bill unanimously passed the full Senate. During the same time, the Executive Office for Immigration Review granted adjustment of status to Marin. Since Marin received permanent resident status, the Senate did not send the bill to the House for further action. In 1999, Senator Durbin sponsored private bill legislation (S.828, 106th Congress) which would grant Ms. De Chalup Turcinovic permanent resident status. That bill did not leave the subcommittee.

On April 12, 2001, Ms. De Chalup Turcinovic was approved for a visa as the spouse of a permanent resident, but Marin passed away two months prior to reaching her eligibility date. On September 5, 2003, Marin had filed an application to naturalize as a U.S. citizen. There was a delay by Citizenship and Immigration Services in obtaining fingerprints from Marin due to his physical condition. Had Marin's application been approved, Ms. De Chalup Turcinovic would have been immediately eligible for permanent residence as the spouse of a U.S. citizen.

Because of Marin's untimely death, the beneficiary does not appear to be eligible for any form of relief from deportation. On February 15, 2008, the beneficiary was granted a stay of deportation until resolution of this bill or March 15, 2009, whichever comes first.

Record checks of various government and non-government databases indicate the beneficiary's current address is 10559 South Talman Avenue, Chicago, Illinois. Her criminal history is maintained under FBI # 505 692 VC0, and indicates only one administrative arrest by Immigration and Customs Enforcement. The beneficiary appears to have no state or local criminal history. Interviews of friends and neighbors of Ms. De Chalup Turcinovic have revealed no derogatory information.

ADDITIONAL VIEWS

Meritorious private bills should either represent unique and compelling circumstances or fit within private bill precedent of the modern era (from the 97th Congress onward, following the ABSCAM private bill scandal).

H.R. 5030 represents a unique and compelling case in that an alien who had come to the U.S. legally was allowed by the Federal Government to stay here for many years to care for her legal immigrant spouse. While that care is no longer needed following the death of her husband, Ms. De Chalup Turcinovic would suffer hardship in having to return to France after so many years in the U.S.

In a broader sense, there is some precedent for the private bill. First, Ms. De Chalup Turcinovic would have already been a conditional permanent resident by the time of her husband's death if not for USCIS error. Congress has passed private bills in cases of aliens who would have received permanent residence but for a mistake by the Federal immigration agency.[1] Second, Congress has passed private bills where alien spouses of American citizens lost the right to receive permanent residence because of the death of the American citizens before the approval of the petitions for conditional permanent residence (usually, but not always, where there was a U.S. citizen child involved).[2]

For these reasons, and because a DHS report on Ms. De Chalup Turcinovic contained no derogatory information, this is a meritorious private bill.

LAMAR SMITH.

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[1] *See, e.g.,* Priv. L. Nos. 106–12 & 106–4.
[2] *See, e.g.,* Priv. L. Nos. 107–5, 106–23, 106–3, 105–8 & 105–7.