

8 C.F.R. § 1208.13 Establishing Asylum Eligibility

(c) Mandatory denials— (1) Applications filed on or after April 1, 1997. For applications filed on or after April 1, 1997, an applicant shall not qualify for asylum if section 208(a)(2) or [208\(b\)\(2\)](#) of the Act applies to the applicant. If the applicant is found to be ineligible for asylum under either section 208(a)(2) or 208(b)(2) of the Act, the applicant shall be considered for eligibility for withholding of removal under section 241(b)(3) of the Act. The applicant shall also be considered for eligibility for withholding of removal under the Convention Against Torture if the applicant requests such consideration or if the evidence presented by the alien indicates that the alien may be tortured in the country of removal.

(2) Applications filed before April 1, 1997.

(i) An immigration judge or asylum officer shall not grant asylum to any applicant who filed his or her application before April 1, 1997 if the alien:

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(E) Ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(ii) If the evidence indicates that one of the above grounds apply to the applicant, he or she shall have the burden of proving by a preponderance of the evidence that he or she did not so act.