

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
United States Immigration Court
477 Michigan Ave., Suite 440
Detroit, MI 48226**

Date: February 12, 2013

IN THE MATTER OF:

IN REMOVAL PROCEEDINGS

[REDACTED]

File No.: A [REDACTED]
A [REDACTED]

Respondents.

CHARGE:

Section 237(a)(1)(B) of the Immigration and Nationality Act ("INA" or "Act"), as amended, as an alien who, after admission as a nonimmigrant, remained in the United States for a time longer than permitted.

APPLICATION:

Humanitarian asylum pursuant to 8 C.F.R. § 1208.13(b)(1)(iii)(B).

APPEARANCES

ON BEHALF OF THE RESPONDENT:

Marshal E. Hyman, Esq.
Sheffield Office Park Plaza
3250 West Big Beaver, Suite 529
Troy, MI 48064-2902

ON BEHALF OF THE DHS:

[REDACTED]
Office of Chief District Counsel
U.S. Department of Homeland Security
333 Mt. Elliott
Detroit, MI 48207

ORDER AND DECISION OF THE IMMIGRATION JUDGE

I. INTRODUCTION AND PROCEDURAL HISTORY

The lead Respondent, [REDACTED] is a [REDACTED]-year-old native and citizen of Romania. She was admitted to the United States as a visitor on [REDACTED], 1994, with permission to remain until [REDACTED], 1994. On [REDACTED], 1994, the Respondent filed a Form I-589, Application for Asylum and Withholding of Removal. Ex. 5. Her husband, [REDACTED] ("Mr. [REDACTED]" or, collectively, "the Respondents"), was included as a derivative on her application. On [REDACTED], 2001, the DHS served the Respondent with a Notice to Appear

("NTA"), which charged her with removability pursuant to INA § 237(a)(1)(B) as an alien who, after admission as a nonimmigrant, remained in the United States for a time longer than permitted. On June 6, 2003, the Respondent filed an amended asylum application. Ex. 6.

On [REDACTED], [REDACTED] an Immigration Judge rendered an oral decision denying the Respondent's applications for relief. Ex. 2. The Board of Immigration Appeals ("BIA") affirmed on [REDACTED], [REDACTED] Ex. 3. On [REDACTED], [REDACTED] the United States Court of Appeals for the Sixth Circuit granted the Attorney General's unopposed motion to remand the case to the BIA for further consideration of the Respondent's request for humanitarian asylum. The BIA remanded the case on [REDACTED], [REDACTED] with instructions to the Court to conduct additional fact-finding to assess the likelihood that the Respondent would suffer "other serious harm" sufficient to warrant a discretionary grant of humanitarian asylum. Ex. 4. A hearing was conducted on [REDACTED], 2013. In light of the testimony taken at that hearing, as well as the supporting documentary evidence, the Court will grant the Respondents' request for humanitarian asylum.

II. EVIDENCE

A. Documentary evidence

The record in this case is voluminous and not all of the documentary evidence is germane to the narrow issue presently before the Court. The Court has marked the following evidence as part of the record on remand:

- Exhibit 1: NTA, dated [REDACTED], [REDACTED];
- Exhibit 2: Oral decision of the Immigration Judge, dated [REDACTED], [REDACTED];
- Exhibit 3: BIA order dismissing the Respondent's appeal, dated [REDACTED], [REDACTED];
- Exhibit 4: BIA order remanding case to the Immigration Court, dated [REDACTED], [REDACTED];
- Exhibit 5: the Respondent's original Form I-589, Application for Asylum and Withholding of Removal, dated [REDACTED], 1994;
- Exhibit 6: the Respondent's amended I-589, filed [REDACTED], 2003;
- Exhibit 7: the Respondent's witness list and proposed exhibits, with Tabs C-O, filed [REDACTED], 2012;
- Exhibit 8: the Respondent's supplemental proposed exhibits, with Tabs P-S, filed [REDACTED], 2012;
- Exhibit 9: the Respondent's exhibits, with Tabs A-B, filed [REDACTED], 2010;
- Exhibit 10: the Respondent's witness list and country conditions evidence, submitted [REDACTED], 2012;
- Exhibit 11: Country reports for 2011;
- Exhibit 12: DHS's proposed exhibits, with Tabs A-C, filed [REDACTED], 2013;
- Exhibit 13: the Respondent's additional evidence, with Tabs U-Y, filed [REDACTED], 2012.

B. Testimonial evidence

In addition to the documentary evidence, the Court took testimony from several witnesses, including the lead Respondent, [REDACTED] her husband, [REDACTED] her son, [REDACTED]; and Dr. [REDACTED], who conducted psychological evaluations of the Respondent on two separate occasions. The testimony of these witnesses will be summarized here to the extent it is relevant to the Court's analysis.

1. Testimony of Dr. [REDACTED]

Dr. [REDACTED] is a psychologist who has twice evaluated the Respondent—once in 2007 and again in [REDACTED] 2012. Dr. [REDACTED] first testified regarding his 2007 evaluation of the Respondent. At that time, the Respondent had recently been on psychotropic medication for anxiety and Dr. [REDACTED] found that she was suffering from a pervasive level of depression at that time. He diagnosed the Respondent with major depressive disorder, which he found to be in the moderate range of severity. The Respondent's condition was related to the maltreatment she experienced in Romania, which stemmed from her involvement in the pro-democracy movement and included two arrests, a beating, and expulsion from university, and her fear of returning there. Dr. [REDACTED] also found that the Respondent met some sub-threshold criteria for post-traumatic stress disorder as a direct result of her experiences at the hands of authorities in Romania. Dr. [REDACTED] testified that the Respondent's disorder affected her daily life and ability to function. It caused her to feel anxious all the time and to be depressed, over-sensitive, and have "diminished capacity" in several aspects of her life.

Dr. [REDACTED] re-evaluated the Respondent in [REDACTED] 2012 and noted some improvement in the Respondent's condition. He found that the Respondent was still suffering from depression, but that it seemed to have decreased to some degree; he diagnosed her as having a mild impairment at that time. Dr. [REDACTED] emphasized that although the Respondent's depression was less severe than it had been in 2007, it was still present and affecting her day-to-day living. He testified that she was gravely concerned about what would happen to her son if she were removed to Romania and that her condition was causing her to suffer from isolation, emotional distress, and sleep disturbances.

Dr. [REDACTED]'s medical opinion is that the Respondent's condition would be greatly exacerbated if she were removed to Romania. He testified that her depression and anxiety would worsen and become more pervasive and that her distress would greatly increase. Her fearfulness would cause her to become isolative and would likely cause her to have a breakdown to the point of becoming non-functional. He testified that the Respondent's debilitation would make her unable to secure employment and would diminish her capacity to care for herself and her family.

2. Testimony of the Respondent, [REDACTED]

The Respondent was born on [REDACTED] in Romania. She is married and has one child, [REDACTED]. The Respondent's mother has resided in the United States as a lawful permanent resident

for six and a half years. The Respondent also has a brother who is a United States citizen and resides in Michigan. The Respondent came to the United States on a visitor visa and has resided here for nineteen years. She has never returned to Romania, but her husband's parents still reside there.

The Respondent resides in Michigan with her family. She purchased a home there in 1998 and still owes about \$[REDACTED] to the bank on her mortgage, even though the present value of her home is only about \$[REDACTED]. In 1999, the Respondent and her husband started a [REDACTED] company [REDACTED]. The business employs approximately [REDACTED] employees, not including the Respondent and her husband. The Respondent testified that she does not know what she could get for the business if she were forced to sell because the business does not own any assets of value that it could liquidate. Most of the [REDACTED] are leased or financed. She testified that the business owns a few [REDACTED] but they are very old, are in poor repair, and are not worth much.

The Respondent does not own any property in Romania and would be unable to afford a home or to start a business there. As to housing, the Respondent testified that the cost of living in Romania has skyrocketed and that Romanian people are unable to afford basic necessities such as food, clothing, and utilities. Home prices are very high and the Respondent testified that a two- to three-bedroom apartment in Romania would cost anywhere from €180,000-300,000. She further testified that she would have very little money to take with her because she is underwater on her mortgage and would likely be forced to abandon her business. She would be unable to purchase a home in Romania.

The Respondent also testified that it would be very difficult, if not impossible, to open a business in Romania due to widespread corruption. She stated that corruption is present in even the lowest levels of society and is pervasive in government, healthcare, education, and all other areas. To start a business would require large amounts of money to file the required paperwork, secure a location, and to bribe the necessary people. To be successful in business would be equally difficult because bribes are also required to acquire contracts. In addition, success in business requires political participation, connections, and money to keep the business running and to pay bribes to various people. The Respondent would not have the means to do any of this.

The Respondent also expressed grave concern about her son's future and well-being if she is removed to Romania. [REDACTED] is a United States citizen and is presently in the [REDACTED] grade. He does well in school, participates in sports, and hopes to attend college and become a doctor or a lawyer. The Respondent testified that [REDACTED] would be devastated if he had to accompany the Respondent and her husband to Romania and that it would be very difficult for him to adapt to the way of life there. He does not read or write the Romanian language at all, and can understand the spoken language only at a very rudimentary level. He would have difficulty continuing his education there because all children in Romania are required to take a national test to enter the ninth grade. The test is entirely in Romanian and covers Romanian literature, language, math, and Romanian history and geography, all of which is entirely foreign to [REDACTED]. Unless he could pass this test, [REDACTED] would not be able to attend high school. Moreover, the cost

of education is very high in Romania, and the streets are filled with children who have been forced to drop out of school because their parents cannot afford to continue sending them. Nevertheless, the Respondent testified that she would have no choice but to bring her son with her to Romania because he is a minor and there is nobody in the United States who would be able to care for him.

The Respondent also worries about the psychological impact on [REDACTED] of being forced to move to Romania and leave the life he knows in the United States. She testified that he is at a critical age and she worries that he might rebel or be very angry and blame his parents for destroying his future. In addition, the Respondent testified that she personally would suffer tremendous guilt and distress at taking [REDACTED] from the life he knows in the United States and bringing him to Romania. The Respondent thought that her son would have a better life than she had and that he would not suffer as she did because he was born in the United States and would have a better way of life. If she were forced to return with her family to Romania, the Respondent would be overwhelmed and very distraught because she would feel that she had destroyed her son's life.

In addition to these concerns, the Respondent is presently the full-time caregiver for her elderly mother. Her mother is eighty years old and resides with the Respondent due to a number of serious health problems. The Respondent's mother has had two heart attacks and suffers from macular degeneration, rendering her legally blind in both eyes. She also has a hematoma on the frontal lobe of her brain. She was recently hospitalized and has been at home on bed rest for a month. The Respondent has been home with her mother providing constant care for her for the past month. The Respondent and her husband pay for her mother's care and if they are removed to Romania, her mother would have no choice but to accompany them. Although the Respondent's brother also resides in the United States, he has serious financial problems and would be unable to care for their mother. He lost his home two years ago and was forced to declare bankruptcy. In addition, he has his own health issues. The Respondent testified that her brother is barely able to provide for himself and would be unable to assume financial responsibility for their mother as well.

The Respondent testified that her mother has insurance and healthcare available to her here, but that it would be very difficult to get her the care she requires in Romania. The healthcare system is very bad and the hospitals are inadequately funded. The hospitals are unable to stock basic supplies and medications and patients are expected to purchase and provide the necessary drugs and supplies they require for treatment. Doctors will not examine patients unless they have the means to pay.

The Respondent testified that she, too, is under a doctor's care for several medical conditions. The Respondent suffers from Hashimoto's disease, a thyroid disorder for which she takes medication regularly and sees a doctor every three to six months. She has also suffered several miscarriages and has been seeing a fertility specialist for several years. In addition, the Respondent must go for regular check-ups with a cardiologist because of panic attacks she began experiencing in 2007. She testified that the attacks began shortly after her asylum application

was denied and she was facing deportation. When the first attack happened, the Respondent believed she was having a heart attack. Her jaw and hand were numb, and her blood pressure was 170/80. She told her husband that she was having a heart attack and needed to go to the hospital. When she got there, the doctors did an EKG and determined that the Respondent was not having a heart attack but had experienced a panic attack. This was when the Respondent began seeing a cardiologist. Her doctors prescribed pills to help control her depression and anxiety. She also began speaking regularly to a clinical psychologist who helped the Respondent calm down and control her emotions. The Respondent also testified that she benefited greatly from acupuncture.

The Respondent has continued to suffer from anxiety, depression, and an inability to sleep. She has nightmares that she is back in Romania and cannot come back to the U.S. These nightmares have been ongoing for the past fifteen years. Although the Respondent was on anxiety and depression medication in the past, her doctor warned her about the risk of dependency and encouraged her to try to deal with her problems without medication if possible. The Respondent last took the medications about two years ago.

The Respondent would be devastated if she were forced to return to Romania. She was twenty-nine years old when she arrived in the United States and has lived and worked here for nineteen years. She fears that she and her husband would be unable to secure jobs because they are [REDACTED] and [REDACTED] years old, respectively, and employers there hire only young people. Many of the factories in Romania have closed and there is no industry left. The jobs that are available pay very low wages and would not even be sufficient to pay for basic necessities such as rent, food, and utilities. Apart from the economic impact, the Respondent would be very depressed if she had to return to Romania. Her mother and [REDACTED] would both be destroyed and the Respondent would see herself as a failure for bringing so much pain into her son's life. She testified that the thought of returning to Romania keeps her up at night and that she does not know the psychological consequences she will suffer if she has to return.

3. Testimony of the Respondent's son, [REDACTED]

[REDACTED] was born on [REDACTED] in [REDACTED] Michigan. He is an only child and resides with his parents and grandmother. He is in [REDACTED] grade, is a good student, and plays sports. [REDACTED] speaks, reads, and writes in the English language. He testified that he learned some Spanish in school, but he cannot speak, read, or write in Romanian. He has never been to Romania and does not know much about the way of life there. He testified that he has an aunt, an uncle, a few cousins, and grandparents in Romania whom he speaks to once in a while. He has other aunts, uncles, and cousins in the United States who live close to him and whom he sees on a daily basis.

[REDACTED] testified that he does not want to go to Romania. His family would be less financially stable and they would not be able to afford basic necessities. He would not have any friends and would not know the language. He testified that his parents speak to his grandmother in Romanian, but that he is unable to understand and his mother has to translate for him so that

he can understand what they are saying. His grandmother is in poor health and his mother takes care of her.

4. Testimony of [REDACTED] [REDACTED] husband and co-Respondent

Mr. [REDACTED] was born in Romania. Although his parents still reside there, they would be unable to help him if the family is forced to return. Mr. [REDACTED] testified that his parents are in their eighties and no longer work. Although they receive a small pension, it is not enough to pay their bills, so Mr. [REDACTED] sends them three to four hundred dollars a month to help with their expenses. They live in the same small house that they built sixty years ago. It has no sewer and no running water. Although his father is eighty-four years old, he is in relatively good health. His mother, however, has many health problems. She is unable to walk due to arthritis.

Although Mr. [REDACTED] worked as a taxi driver when he last lived in Romania, he fears that he would be unable to get a job there now due to his age and the present economic conditions. He testified that his sister, who holds a [REDACTED] in the [REDACTED] field, works as a cashier in a grocery store and earns approximate \$150 per month. Her husband, who is a [REDACTED], works as a mechanic. His sister, her husband, and their two teenage sons live in Bucharest in a one-bedroom apartment that Mr. [REDACTED] helped her purchase. She would be unable to provide financial assistance to Mr. [REDACTED] and his family if they are removed to Romania.

Mr. [REDACTED] testified that he cannot leave his son behind in the United States, but he will feel like a failure if he is forced to take him to Romania. His son has plans to attend college and become a doctor or a lawyer, but he does not speak Romanian and would not be able to do well in school there. Mr. [REDACTED] also testified that he is concerned about the availability of medical care in Romania. His mother was in the hospital a year ago and he testified that the doctors refused to treat her until his father got money to pay them. Mr. [REDACTED] also testified that he sends his mother money for her medical care.

III. LEGAL STANDARDS & ANALYSIS

A. Credibility and corroboration

As in all applications for asylum, the Court must make a threshold determination of the alien's credibility. See *Matter of O-D-*, 21 I&N Dec. 1079 (BIA 1998); *Matter of Pula*, 19 I&N Dec. 467 (BIA 1987). Because the Respondent's asylum application was filed before May 11, 2005, it is not subject to the provisions of the REAL ID Act. See 119 Stat. 231 (2005), § 101(h)(2) (effective date provision). Under pre-REAL ID Act standards for assessing credibility, an applicant's testimony may be sufficient to sustain the burden of proof, provided that the testimony is credible. 8 C.F.R. §§ 1208.13(a), 1208.16(b). To be credible, the applicant's testimony must be detailed, plausible, and consistent, and must satisfactorily explain any material discrepancies or omissions in his application or testimony. *Matter of S-M-J-*, 21 I&N Dec. 722 (BIA 1997). Testimony is considered not credible when it is inconsistent, contradicts

country conditions, or is inherently improbable. *Id.* at 729. Minor inconsistencies that do not go to the heart of the claim are insufficient to support an adverse credibility finding. *Matter of A-S-*, 21 I&N Dec. 1106 (BIA 1998).

The Court finds that the Respondent testified credibly. She gave detailed testimony regarding her financial situation in the United States, her fears related to her son's education and future in Romania, her mother's health problems and the level of care she requires, and her own physical and psychological ailments. She further testified about the state of the economy in Romania, including her prospects for finding employment and housing and the difficulties she would encounter in attempting to do so. The fears she expressed are consistent with and corroborated by the ample evidence of country conditions in Romania. Therefore, the Court will credit the Respondent's testimony.

B. Humanitarian asylum

Humanitarian asylum is a discretionary form of relief that may be available to an alien who experienced past persecution but no longer has a well-founded fear of future persecution due to changed country conditions. *See* 8 C.F.R. § 1208.13(b)(1)(iii). An alien who has established that she is a refugee within the meaning of INA § 101(a)(42)(A) may show that she warrants humanitarian asylum in one of two ways. First, the applicant may demonstrate "compelling reasons" for being unwilling to return to her home country due to the severity of the past persecution she suffered. 8 C.F.R. § 1208.13(b)(1)(iii)(A). Alternatively, the applicant may demonstrate that there is a "reasonable possibility" that she will suffer "other serious harm" upon removal to her home country. 8 C.F.R. § 1208.13(b)(1)(iii)(B). In either case, the applicant must also establish that she warrants humanitarian asylum in the exercise of discretion. *Matter of L-S-*, 25 I&N Dec. 705, 713 (BIA 2012).

C. Past persecution

Before reaching the issue of humanitarian asylum, the Court must address whether the Respondent has met the initial burden of establishing that she is a refugee. *Id.* at 710. In its remand order of [REDACTED] the Board directed this Court to consider the Respondents' claim for humanitarian asylum and, in particular, to determine whether they established that there is a "reasonable possibility" that they will suffer "other serious harm" if removed to Romania. *See* Ex. 4. The Board would not have directed this Court to consider "other serious harm" to the Respondents if it did not first find that the lead Respondent is a "refugee" within the meaning of the Act. Based on this directive, the Court interprets the Board's order as encompassing an implicit finding that the Respondent established past persecution.

However, even if the Court's interpretation of the remand order is incorrect on this point, as DHS argues, the Court finds that the record is sufficient to establish that the Respondent suffered past persecution. The Respondent testified in [REDACTED] about the abuse she suffered at the hands of the Romanian government on account of her involvement in various pro-democracy organizations and demonstrations. While the two detentions that the Respondent described and

her one-year expulsion from school might not rise to the level of persecution, she was brutally beaten on a third occasion when the government sent miners into a demonstration armed with clubs and axes to disperse the crowd. The Respondent was beaten to the point of unconsciousness. She was taken to an emergency room where she was treated for numerous lesions on her head and neck and two fissured ribs. She remained hospitalized for six days. She was placed in a cast and required three months to recuperate from her injuries. The Court finds that the severity of these injuries rises to the level of persecution.¹

D. Other serious harm

The provision in the Code of Federal Regulations that makes humanitarian asylum available on the basis of "other serious harm" was added in 2001 to broaden the standards for the exercise of discretion in cases where past persecution was established but the alien lacked a well-founded fear of future persecution. See Executive Office for Immigration Review; New Rules Regarding Procedures for Asylum and Withholding of Removal, 63 Fed. Reg. 31,945, 31,947 (proposed June 11, 1998) (Supplementary Information). The new regulation "made the consideration of a reasonable possibility of other serious harm a specific, additional, and separate avenue for relief." *Matter of L-S-*, 25 I&N Dec. at 714. The provision differs from the "compelling reasons" provision in that an applicant need not show that the harm suffered in the past was atrocious. *Id.*

The inquiry into other serious harm is forward-looking. The harm alleged need not be inflicted on account of a protected ground and may be wholly unrelated to the past harm that the alien suffered. *Id.* However, it must be harm that is equivalent in severity to persecution. *Id.* In analyzing such claims, the finder of fact should focus on "current conditions and the potential for new physical or psychological harm that the applicant might suffer" if removed. *Id.* Appropriate considerations include "major problems that large segments of the population face" as well as "conditions that might not significantly harm others but that could severely affect the applicant." *Id.* Examples of such conditions include civil strife, extreme economic disadvantage, and situations that could cause the applicant to experience "severe mental or emotional harm or physical injury." *Id.* This list is not exhaustive.

¹ The Court acknowledges some minor discrepancies between the Respondent's medical evidence and her testimony regarding her injuries. For instance, the Respondent testified that she was hospitalized for five days, not six, and that she suffered "a cracked vertebra" as opposed to cracked ribs. Based on these inconsistencies and others of a similar nature, the Immigration Judge who presided over the Respondent's 2006 hearing made an adverse credibility finding that was a significant factor in her denial of the Respondent's claims. Given the passage of roughly sixteen years between the beating and her testimony, the Court does not find that these inconsistencies, which do not go to the heart of the Respondent's claim, warrant an adverse credibility finding. The BIA likewise found that the Immigration Judge's credibility ruling was erroneous. See Ex. 3. Regardless of the precise number of days she was hospitalized and whether it was a rib or a vertebra that was cracked, this Court is satisfied that the Respondent suffered grievous injuries amounting to persecution.

The Respondent alleges two types of "other serious harm" that she is likely to experience if removed to Romania: severe economic deprivation and serious mental or emotional harm. The Court will address each of these in turn.

1. Severe economic deprivation

The Respondent testified that she and her family will suffer severe economic deprivation in Romania. They will be forced to abandon the successful business they have built in the United States and are unlikely to derive any revenue from the sale of the business because the business does not own any assets of value to liquidate. The Respondent testified that she is also approximately \$[REDACTED] underwater on her mortgage and, thus, would be unable to derive any profit from the sale of her home. This would leave the Respondent and her family in a dire financial position because they would have no money to take with them to begin a new life in Romania.

Moreover, the Respondent testified that the current economic climate in Romania is very poor. The cost of living and housing has skyrocketed, while the availability of jobs and wages have plummeted. The Respondent testified that she and her husband would have difficulty finding employment due to their ages and their lack of political connections. They would be unable to afford basic necessities such as housing, food, and utilities. The Respondent's testimony was corroborated by that of Mr. [REDACTED] who recounted the economic struggles that his own family members have endured in Romania. Mr. [REDACTED]'s sister and brother-in-law, for instance, earn only menial wages as a [REDACTED] and a [REDACTED] respectively, despite being highly educated. They live with their two children in a one-bedroom apartment that they were able to afford only with the assistance of a \$[REDACTED] down payment from Mr. [REDACTED]. Similarly, Mr. [REDACTED]'s parents are unable to survive on his father's meager pension; Mr. [REDACTED] sends them several hundred dollars a month to help with their bills and medical expenses.

The evidentiary record provides further insight into economic conditions in Romania. Although the evidence of recent country conditions relates mainly to the current political situation there, even this evidence makes reference to Romania's struggling economy and weak currency. *See, e.g., Ex. 13, Tab X, p. 593.* In 2009, Romania accepted a €20 billion bailout from the European Union and International Monetary Fund, but the economic situation has yet to improve. *See Ex. 13, Tab Y, p. 593.* The prime minister has imposed "some of Europe's toughest austerity measures" in an effort to control the country's deficit, which has resulted in "slashing public sector wages," *Ex. 10, Tab T, p. 514,* as well as layoffs and reductions in benefits and pensions, *id. at 525.* The Romanian currency is at record lows against the Euro, causing rises in milk, bread, and meat prices. *Id. at p. 515.* At recent political demonstrations, protestors "blamed the government and austerity measures for their poor living standards." *Tab M, p. 351.* The sentiments of the protestors mirror many of the fears that the Respondent has articulated: they reported a lack of financial security and inability to secure jobs. *Id.*

The Respondents also provided evidence of the cost and standards of living in Romania. *Id. at 354.* According to this evidence, the median monthly salary after taxes is €314. The rental

price for a one-bedroom apartment ranges from €172 to €246 monthly, while a three-bedroom apartment ranges from €286 to €406. Basic utilities are an additional €58 per month. Commodities like a pair of jeans or tennis shoes cost €65-70. Other evidence related to living conditions indicates that forty-three percent of Romania's population lives in dwellings without an indoor flushing toilet, and forty-one percent have no bath or shower. *Id.* at 348.

In *Matter of T-Z*, 24 I&N Dec. 163 (BIA 2007), the Board described the circumstances in which economic deprivation might rise to the level of persecution. It cautioned that mere economic discrimination would be insufficient, as would "mere loss of social advantages or physical comforts." *Id.* at 173. However, an applicant "need not demonstrate a total deprivation of livelihood or a total withdrawal of all economic opportunity in order to demonstrate harm amounting to persecution." *Id.* For instance, "[g]overnment sanctions that reduce an applicant to an impoverished existence may amount to persecution even if the victim retains the ability to afford the bare essentials of life." *Id.* at 174.

The evidence persuades the Court that there is a "reasonable possibility" that the Respondents will suffer severe economic deprivation if removed to Romania. If forced to return, the Respondents will be starting over in a country that is now foreign to them without a penny to their names. Although they have some family there, these family members are themselves in financial straits and will not be in a position to support the Respondents. Even if the Respondents are able to secure employment, which the evidence suggests is unlikely, the wages they will likely earn will be inadequate to provide perhaps even the barest essentials. The Court finds that this evidence demonstrates a reasonable possibility that the Respondents will be reduced to an impoverished existence amounting to serious harm.

2. *Serious mental or emotional harm*

The Respondent also fears that she will suffer serious mental and emotional harm if removed to Romania. She recounted her struggles with anxiety and depression, which Dr. [REDACTED] diagnosed as a major depressive disorder that affected the Respondent's day-to-day ability to function. She was previously on psychotropic medications and under the care of a clinical psychologist for this disorder, though for the past two years she has pursued non-pharmaceutical treatments for her condition. The Respondent further testified that her fear of returning to Romania keeps her up at night and has caused her recurring nightmares for the past fifteen years. She would be overwhelmed and distraught if forced to bring her ailing mother and her son, both of whom are dependent on the Respondents, to Romania. Her son would be unable to communicate and would not have the educational foundation necessary to continue his schooling beyond the eighth grade. He would lose the opportunity to attend college and pursue a career. The Respondent would also be unable to acquire or afford medical insurance for her mother and would not have the funds necessary to buy her medications and pay for her continued care. The Respondent would feel that she had failed her son and her mother, but would nevertheless have no choice but to bring them to Romania if she is removed. She fears that she would suffer severe psychological consequences as a result.

Dr. [REDACTED] confirmed that, in his professional opinion, the Respondent's condition would deteriorate significantly if she is forced to return to Romania. He testified that returning to Romania would greatly exacerbate her depression and anxiety. The Respondent's depressive symptoms would heighten and become pervasive to the point of being debilitating. He testified that the Respondent would become fearful and isolative and her capacity to care for herself and her family would be greatly diminished. This would also make it very difficult, if not impossible, for the Respondent to find employment.

The Court is amply persuaded by the testimony and the evidence that there is a "reasonable possibility" that the Respondent will suffer serious mental or emotional harm if removed to Romania. The Respondent was not only sincere, but visibly distraught when testifying about the prospect of removing her son from the only life he has ever known and taking him to a country where he does not know the language and has no educational prospects. It is clear that these fears—in addition to the added pressures of caring for a seriously ill parent—have contributed greatly to the depression and anxiety that the Respondent has suffered in the many years that her immigration proceedings have been ongoing. Although her clinical symptoms have improved in recent years, should her fears materialize and become a reality, the Court finds that the emotional and psychological trauma that the Respondent would endure as a result would likely be debilitating. The Court further finds that the Respondent has established that there is at least a "reasonable possibility" that such harm will occur.

IV. CONCLUSION

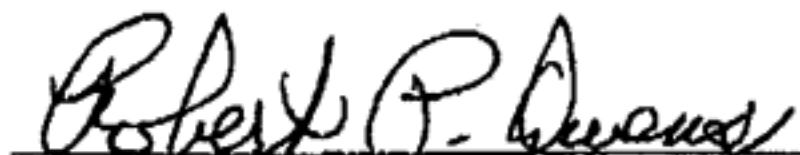
Based on the foregoing, the Court finds that the Respondent suffered past persecution on account of her political opinion in Romania. While country conditions have evolved continuously in the nineteen years since she left, the Court finds that the Respondent has established a "reasonable possibility" that she will suffer "other serious harm" if removed to Romania, including both severe economic deprivation as well as serious mental and emotional harm. The Court also finds that the Respondents merit a favorable exercise of discretion. Consistent with these findings, the Court will grant the Respondents' request for humanitarian asylum pursuant to 8 C.F.R. § 1208.13(b)(1)(iii)(B).

Accordingly, the Court enters the following order:

ORDER

IT IS HEREBY ORDERED THAT: The Respondents' request for humanitarian asylum pursuant to 8 C.F.R. § 1208.13(b)(1)(iii)(B) be **GRANTED.**

APPEAL RIGHTS: Both parties have the right to appeal the decision in this case. Any appeal is due at the Board of Immigration Appeals ("BIA") on or before 30 calendar days from the date of service of this decision.



Robert P. Owens

United States Immigration Judge