

Frequent Asked Questions About Temporary Protected Status

What is Temporary Protected Status?

Temporary Protected Status, or TPS, is a temporary, renewable program that provides relief from deportation and access to a work permit for certain migrants in a small number of countries who may not meet the legal definition of refugee but who cannot safely return to their country of origin.

When TPS started?

TPS was established by Congress through the Immigration Act of 1990. Congress established a procedure by which the Attorney General may provide TPS to immigrants in the United States who are temporarily unable to safely return to their home country. On March 1, 2003, pursuant to the Homeland Security Act of 2002, Public Law 107-296, authority to designate a country (or part thereof) for TPS, and to extend and terminate TPS designations, was transferred from the Attorney General to the Secretary of Homeland Security. In 1990, when Congress enacted the TPS statute, it also granted TPS for one year to nationals from El Salvador who were residing in the United States.

What are TPS benefits?

TPS provides employment authorization and protection from deportation for immigrants from designated countries, within designated period.

Why a country is designated for TPS?

Under current law, the Homeland Security Secretary may designate a country for TPS when one of three circumstances occurs:

- There is “ongoing armed conflict” that creates unsafe conditions for returning nationals;
- There has been an earthquake, flood, drought, epidemic, or other environmental disaster that makes the state temporarily unable to accept the return of its nationals, and the state has requested TPS designation; or
- “Extraordinary and temporary” conditions in a state prevent its nationals from returning safely.

Who decides which country will be designated TPS status?

The Secretary of Homeland Security, in consultation with the Secretary of State, can issue TPS for periods of 6 to 18 months and can extend these periods if conditions do not change in the designated country.

How someone from a designated country becomes eligible for TPS?

U.S. Citizenship and Immigration Services (USCIS) may grant TPS to eligible nationals of certain countries (or parts of countries), who are already in the United States. Eligible individuals without nationality who last resided in the designated country may also be granted TPS.

How eligible nationals may apply for TPS?

To obtain TPS, eligible migrants report to the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS), pay a processing fee, and receive registration documents and a work authorization. The major requirements for migrants seeking TPS are proof of eligibility (e.g., a passport issued by the designated country, continuous physical presence in the United States since the date TPS went into effect, timely registration, and being otherwise admissible as an immigrant). The regulation specifies grounds of inadmissibility that cannot be waived, including those relating to criminal convictions and the persecution of others.

Are TPS beneficiaries granted Citizenship?

TPS is a temporary benefit that does not lead to lawful permanent resident status or give any other immigration status. Even if you were to live and work legally in the United States as a TPS beneficiary for many years, there is no route to permanent residence (i.e., a green card) that will follow simply from a grant of TPS. However, registration for TPS does not prevent you from: (1) applying for nonimmigrant status, (2) filing for adjustment of status based on an immigrant petition and (3) applying for any other immigration benefit or protection for which you may be eligible.

What needs to be done to allow a path to lawful permanent residency?

The TPS provision in the INA states that a bill or amendment that provides for the adjustment to lawful temporary or legal permanent resident (LPR) status for any migrant receiving TPS requires a supermajority vote in the Senate (i.e., three-fifths of all Senators) voting affirmatively. Provisions that would have allowed nationals from various countries that have had TPS to adjust to LPR status had been introduced in past Congresses, but not enacted.

What happens if TPS is terminated for a designated country?

DHS has made clear that information it collects when a migrant registers for TPS may be used to institute exclusion or deportation proceedings upon the denial, withdrawal, or expiration of TPS.

Why former TPS recipients could be deported if TPS is allowed to expire or withdrawn?

Upon the denial, withdrawal, or expiration of TPS the foreign nationals lack proper immigration authorization to remain in the country, there three kinds of violation of the Immigration and Nationality Act: (1) those who overstay their nonimmigrant visas, (2) those who enter the country surreptitiously without inspection, and (3) those who are admitted on the basis of fraudulent documents. In all three instances, those individuals are in violation of the Immigration and Nationality Act (INA) and subject to removal.

How the Executive Orders of the new administration may impact TPS recipients?

On January 25, 2017 President Trump signed Executive Order 13768, Enhancing Public Safety in the Interior of the United States, which was later implemented through a memorandum signed by the DHS Secretary on February 20, 2017. These executive actions dramatically increased the universe of immigrants subject to deportation, eliminating the Obama Administration's enforcement priorities and essentially making all immigrants subject to deportation. Consequently, while the 300,000 Salvadoran, Honduran, and Haitian TPS holders are currently protected from deportation, upon termination of TPS, these individuals will not only become subject to deportation, but will be at serious risk because DHS has extensive and updated records on their place residence and work, due to the frequent re-registration requirements of the program.

Are there any other countries requesting TPS relief?

Yes, while there is no publically available list of countries currently petitioning for TPS status, three countries are known to have made recent requests: Pakistan, Guatemala, and the Philippines. A Pakistani advocacy group requested TPS following severe flooding in Pakistan in 2010. Guatemala has requested TPS on numerous occasions, with the most recent request in 2012 following an earthquake. The government of the Philippines requested TPS following Typhoon Haiyan in 2013 through a "note verbale" to the State Department. DHS at times responds quickly to these requests or may let months (or even years) pass without providing a response

Who ordered the termination of TPS for Guinea, Liberia and Sierra Leon?

In September 22, 2016 the Obama administration announced the final designation of TPS benefits for recipients from Guinea, Liberia and Sierra Leon. After 27 years of relief from removal, Liberians TPS recipients received a six months extension to allow for orderly transition before termination in May 21, 2017. There are approximately two thousand TPS beneficiaries from Liberia.

Haitian TPS, what do we know?

In May 22, 2017 the Trump administration announced a six-month extension effective July 23, 2017 through January 22, 2018 for orderly transition before termination in January 2018. The earthquake in Haiti in 2010 left an estimated 1.5 million homeless, 300,000 injured, and claimed the lives of tens of thousands of people and possibly more (the death toll estimates vary widely from 46,000 to 316,000). Most experts concur that Haiti is still not in a position to receive the TPS-holders, and they currently provide a key source of foreign revenue that supports many families in Haiti.

Resources:

Temporary Protected Status, USCIS <https://www.uscis.gov/humanitarian/temporary-protected-status>

Temporary Protected Status: Current Immigration Policy and Issues, Congressional Research Service

Migration Policy Institute: Temporary Protected Status in the United States: A Grant of Humanitarian Relief that Is Less than Permanent

Liberian DED: A Rebuttal (Guest Commentary) <http://theliberianjournal.com/index.php?st=news&sbst=details&rid=963>

The New Yorker <http://www.newyorker.com/news/news-desk/a-harrowing-turning-point-for-haitian-immigrants>