



Research

Primer: Temporary Protected Status

JACQUELINE VARAS, KEVIN LENTZ | DECEMBER 10, 2018

EXECUTIVE SUMMARY

- The Temporary Protected Status (TPS) program was designed to provide temporary sanctuary to individuals from countries experiencing an ongoing environmental disaster, armed conflict, or other conditions preventing them from safely returning. TPS recipients must reside in the United States at the time their country is designated with TPS status and apply for TPS from within the United States.
- The application process involves biometric screening, criminal background checks, and proof of physical presence, residence, and date of entry into the United States.
- The United States currently provides TPS to approximately 436,866 foreign nationals from 10 countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, and Yemen.
- The Trump Administration is terminating temporary protected status for El Salvador, Honduras, Nepal, Haiti, Sudan, and Nicaragua, effectively ending protection for 428,258 (98 percent) of all TPS beneficiaries. In October 2019, however, a federal judge ordered a temporary halt to the administration's actions.

INTRODUCTION

The Immigration Act of 1990 established the [Temporary Protected Status \(TPS\)](#) program. This program was designed to protect foreign-born individuals in the United States who do not meet the legal definition of a refugee but would be at risk upon return to their country. TPS also assists foreign countries experiencing unrest that are unable to absorb the return of their nationals. To accomplish these ends, it created a temporary channel for humanitarian-based migration for individuals from countries currently experiencing

disasters or conflicts. Recipients, who must already be in the United States, are provided a work permit and a stay of deportation while their country is designated a TPS country by the U.S. government.

The United States currently provides TPS to approximately 436,866 foreign nationals from 10 countries. Earlier this year, the Trump Administration announced its plan to suspend TPS designation for six of the 10 countries, revoking legal status for 98 percent of all current TPS beneficiaries. Last October, however, a federal judge in California suspended the administration's plan by ruling a preliminary injunction against it.

RECEIVING TPS DESIGNATION

The secretary of the Department of Homeland Security (DHS) has the authority to designate a country with TPS status if one of several conditions are met. To be eligible for TPS designation, a country must be experiencing an environmental disaster, armed conflict, or "extraordinary and temporary conditions" that prevent foreign nationals from returning safely. The secretary must consult with other government agencies - typically the Department of State, Department of Justice, and White House National Security Council - before designating any country a TPS country.

TPS designations can be 6, 12, or 18 months long and must be renewed or terminated at least 60 days prior to the end of the TPS designation. These designations must be updated on the federal registry; if there is no update 60 days prior to end of TPS designation, the designation is automatically extended for 6 months. There is no law limiting the amount of time that a country can have TPS designation.

Table 1 shows the countries currently with a TPS designation, their original date of designation, and the conflict they are experiencing. In addition to the countries shown below, 12 additional nations have received TPS designation in the past that have since been terminated. Examples include Kuwait, Rwanda, Lebanon, and Liberia.

Table 1: Countries with Current TPS Designation

Country	Date of Original Designation	Reason for Current TPS Designation
El Salvador	March 9, 2001	Environmental disaster (series of earthquakes)
Honduras	January 5, 1999	Environmental disaster (Hurricane Mitch)

Haiti	January 21, 2010	Extraordinary and temporary conditions (2010 earthquake)
Nepal	June 24, 2015	Environmental disaster (magnitude 7.8 earthquake)
Nicaragua	January 5, 1999	Environmental disaster (Hurricane Mitch)
Somalia	September 16, 1991	Extraordinary and temporary conditions (armed conflict between government forces and clan militias, drought, and famine)
South Sudan	October 13, 2011	Armed conflict (widespread violence after 2011 independence vote)
Sudan	November 4, 1997	Armed conflict (civil war leading to the secession of South Sudan)
Syria	March 29, 2012	Extraordinary and temporary conditions (Syrian civil war)
Yemen	September 3, 2015	Armed conflict (opposition group conflict with government forces)

APPLYING FOR TPS

To qualify for TPS status, individuals must fulfill [four main criteria](#). First, they must be nationals of a foreign country with TPS designation. If they have [no nationality](#), for example due to the dissolution of their country or laws preventing individuals of certain ethnicities from obtaining citizenship, they must be able to prove that they habitually resided in a country with TPS designation. Second, they must have been continuously physically present in the United States since the most recent date of TPS designation (including renewals). Third, they must have resided in the United States since a date specified by the secretary of DHS – however, there are exceptions to these requirements for “casual and innocent departures” from the United States. Last, they cannot be subject to any of the [legal bars to asylum](#). These include participating in the persecution of another, posing a danger to national security, participating in terrorist activity, or firmly resettling in another country before coming to the United States. Individuals are also [ineligible for TPS](#) if they have been convicted of a felony or two or more misdemeanors. Applicants must reapply and meet the same standards for TPS every time their country is redesignated.

Applicants file petitions for TPS with U.S. Citizenship and Immigration Services (USCIS). In addition to paying a fee, they must submit evidence of their identity and nationality, proof of

date of entry and residence in the United States, and proof of physical presence. Applicants also undergo fingerprinting and background checks for criminal history. USCIS then reviews the application and may request additional evidence to determine if the applicant meets the basic eligibility requirements of a TPS beneficiary. If applicants are awarded TPS status, they are immediately eligible for employment authorization. If not, they revert to their previous immigration status. Family members of TPS beneficiaries must independently qualify for TPS; they are not eligible for derivative legal status.

TPS beneficiaries have no direct path to legal permanent residency or U.S. citizenship but may apply if separately eligible, for instance through family ties or employer sponsorship. Before September 2017, transitioning to legal status required TPS beneficiaries to exit the United States and have their visas processed at a U.S. consulate abroad. If TPS recipients did not first seek permission from the government before exiting the United States (called advanced parole), they could be barred from re-entry for up to 10-years. The [Ninth Circuit Court ruled](#), however, that individuals with valid TPS status, even those that originally entered unlawfully, may pursue adjustment to permanent legal status from within the United States.

RECENT DEVELOPMENTS

Earlier this year, the Trump Administration announced the termination of TPS designations for six countries. This de-designation will impact 428,258 TPS recipients, or approximately 98 percent of current TPS beneficiaries. An additional 310,540 individuals from the six nations applied for TPS between January and March of this year, bringing the total number of individuals impacted to nearly 740,000. TPS was extended for only four nations: Somalia, South Sudan, Syria, and Yemen. After the terminations, only 7,620 current TPS beneficiaries (2 percent) will remain, in addition to 8,606 applicants from earlier this year that may receive TPS.

Table 2 below [lists the dates](#) that TPS will expire for each nation and the number of individuals that will be affected.

Table 2: TPS Termination Schedule and Number of Individuals Affected

Country	Most Recent Decision	Expiration Date	Current TPS Recipients	Additional Applicants for TPS
El Salvador	Termination	September 9, 2019	262,526	195,000
Haiti	Termination	July 22, 2019	58,557	46,000

Honduras	Termination	January 5, 2020	86,031	57,000
Nepal	Termination	June 24, 2019	14,791	8,950
Nicaragua	Termination	January 5, 2019	5,305	2,550
Somalia	Extension	March 17, 2020*	499	500
South Sudan	Extension	May 2, 2019*	77	70
Sudan	Termination	November 2, 2018	1,048	1,040
Syria	Extension	September 30, 2019*	6,916	5,800
Yemen	Extension	March 3, 2020*	1,116	1,250
Total			436,866	317,660
*TPS designation will be automatically extended on this date if no new determination is made				

On October 3rd, [the Ninth Circuit halted](#) the administration's enforcement of its decision to terminate the TPS designation in Sudan, El Salvador, Nicaragua, and Haiti. TPS designation for these countries will continue as long as the preliminary injunction ordered by the court remains in effect. The Department of Justice [appealed this ruling](#), however, and the court case is ongoing. If no decision is made by April 2, 2019, the United States will extend TPS for the four nations until January 2, 2020.