



## Temporary Protected Status: An Overview

Temporary Protected Status (TPS) is a temporary immigration status provided to nationals of certain countries experiencing problems that make it difficult or unsafe for their nationals to be deported there.<sup>1</sup> TPS has been a lifeline to hundreds of thousands of individuals already in the United States when problems in a home country make their departure or deportation untenable. This fact sheet provides an overview of how TPS designations are determined, what benefits TPS confers, and how TPS beneficiaries apply for and regularly renew their status.

### What is Temporary Protected Status?

Congress created Temporary Protected Status (TPS) in the Immigration Act of 1990.<sup>2</sup> It is a temporary immigration status provided to nationals of specifically designated countries that are confronting an ongoing armed conflict, environmental disaster, or extraordinary and temporary conditions.<sup>3</sup> It provides a work permit and stay of deportation to foreign nationals from those countries who are in the United States at the time the U.S. government makes the designation.<sup>4</sup> There were approximately 320,000 TPS recipients residing in the United States as of May 2021.<sup>5</sup>

### For what reasons can a country be designated for TPS?

A country may be designated for TPS for one or more of the following reasons:<sup>6</sup>

- **An ongoing armed conflict**, such as a civil war, that poses a serious threat to the personal safety of returning nationals;
- **An environmental disaster**, such as an earthquake, hurricane, or epidemic, that results in a substantial but temporary disruption of living conditions, and because of which the foreign state is temporarily unable to adequately handle the return of its nationals; or
- **Extraordinary and temporary conditions** in the foreign state that prevent its nationals from returning to the state in safety (unless the U.S. government finds that permitting these nationals to remain temporarily in the United States is contrary to the U.S. national interest).

### Who has the authority to designate a country for TPS?

The Secretary of Homeland Security has discretion to decide when a country merits a TPS designation.<sup>7</sup> The Secretary must consult with other government agencies prior to deciding to designate a country—or part of a

country—for TPS.<sup>8</sup> Although these other agencies are not specified in the statute, these consultations usually involve the Department of State, the National Security Council, and occasionally the Department of Justice (DOJ). The Secretary’s decision as to whether or not to designate a country for TPS is not subject to judicial review, according to immigration law.

## **How long are TPS designations?**

A TPS designation can be made for 6, 12, or 18 months at a time.<sup>9</sup> At least 60 days prior to the expiration of TPS, the Secretary must decide whether to extend or terminate a designation based on the conditions in the foreign country.<sup>10</sup> Decisions to begin, extend, or terminate a TPS designation must be published in the Federal Register.<sup>11</sup> If an extension or termination decision is not published at least 60 days in advance of expiration, the designation is automatically extended for six months.<sup>12</sup> The law does not define the term “temporary” or otherwise limit the amount of time for which a country can have a TPS designation.

## **Who is eligible for TPS?**

In order to qualify for TPS, an individual must:<sup>13</sup>

- Be a national of the foreign country with a TPS designation (or if stateless, have last habitually resided in a country with a TPS designation);
- Be continuously physically present in the United States since the effective date of designation;
- Have continuously resided in the United States since a date specified by the Secretary of Homeland Security; and
- Not be inadmissible to the United States or be barred from asylum for certain criminal or national security-related reasons, such as individuals who have been convicted of any felony or two or more misdemeanors.

Nationals of a designated country do not automatically receive TPS, but instead must register during a specific registration period and pay significant fees. In addition, an individual’s immigration status at the time of application for TPS has no effect on one’s eligibility, nor does the previous issuance of an order of removal.

## **What does TPS authorize a noncitizen to do?**

An individual who is eligible for TPS must register by submitting an application to U.S. Citizenship and Immigration Services (USCIS), an agency of the Department of Homeland Security (DHS).<sup>14</sup> If a person demonstrates eligibility and USCIS grants TPS, that person receives a temporary stay of deportation and temporary authorization to work in the United States.<sup>15</sup> TPS beneficiaries are also eligible for advance parole, which provides permission to travel abroad and return to the United States, but they must apply for it separately.<sup>16</sup> Beneficiaries are not eligible for any public assistance by virtue of their TPS status.<sup>17</sup>

## Which countries have TPS?

As of September 2021, the following 12 countries were designated for TPS and the designation had not expired:<sup>18</sup>

- **Burma** (Valid through November 25, 2022)<sup>19</sup>
- **El Salvador** (Extended until December 31, 2022)<sup>20</sup>
- **Haiti** (Extended until December 31, 2022)<sup>21</sup>
- **Honduras** (Extended until December 31, 2022)<sup>22</sup>
- **Nepal** (Extended until December 31, 2022)<sup>23</sup>
- **Nicaragua** (Extended until December 31, 2022)<sup>24</sup>
- **Somalia** (Extended until March 17, 2023)<sup>25</sup>
- **South Sudan** (Extended until May 2, 2022)<sup>26</sup>
- **Sudan** (Extended until December 31, 2022)<sup>27</sup>
- **Syria** (Extended until September 30, 2022)<sup>28</sup>
- **Venezuela** (Valid through September 9, 2022)<sup>29</sup>
- **Yemen** (Extended until March 3, 2023)<sup>30</sup>

## Which countries have had TPS in the past?

Since TPS was created, the following countries or parts of countries have had TPS designations that are now terminated:

- **Angola** (Expired March 29, 2003)<sup>31</sup>
- **Bosnia-Herzegovina** (Expired February 10, 2001)<sup>32</sup>
- **Burundi** (Expired May 2, 2009)<sup>33</sup>
- **Guinea** (Expired May 21, 2017)<sup>34</sup>
- **Guinea-Bissau** (Expired September 10, 2000)<sup>35</sup>
- **Province of Kosovo** (Expired December 8, 2000)<sup>36</sup>

- **Kuwait** (Expired March 27, 1992)<sup>37</sup>
- **Lebanon** (Expired April 9, 1993)<sup>38</sup>
- **Liberia** (Expired May 21, 2017)<sup>39</sup>
- **Montserrat** (Expired August 27, 2004)<sup>40</sup>
- **Rwanda** (Expired December 6, 1997)<sup>41</sup>
- **Sierra Leone** (Expired May 21, 2017)<sup>42</sup>

### **Does TPS create a path to permanent residence or citizenship?**

TPS does not provide beneficiaries with a separate path to lawful permanent residence (a green card) or citizenship.<sup>43</sup> However, a TPS recipient who otherwise is eligible for permanent residence may apply for that status.<sup>44</sup>

Generally, a person who entered the United States without inspection is not eligible to apply for permanent residence. Six federal appellate circuits previously ruled on this issue.<sup>45</sup> Three federal appellate circuits (the Sixth, Eighth, and Ninth Circuits) ruled that a person with valid TPS status could adjust status to lawful permanent residence if otherwise eligible through a family-based or employment-based petition, even if he or she entered the United States without inspection. Three other federal appellate courts (the Third, Fifth, and Eleventh Circuits) ruled that a TPS recipient who entered without inspection is not eligible to adjust to permanent residence.

In June 2021, the Supreme Court subsequently ruled that a TPS recipient who entered the United States without inspection is not eligible to adjust to permanent residence from within the United States, overturning the prior decisions by the Sixth, Eighth, and Ninth Circuits.<sup>46</sup> In order to gain permanent resident status, a TPS recipient who initially entered the United States without inspection must depart the country to have a visa processed at a consular post. For many TPS holders, a departure to have a visa interview would trigger bars to re-entry for up to 10 years.

Alternatively, some TPS recipients may be eligible to adjust status if they were granted advance permission from USCIS (referred to as advance parole), traveled abroad, and were paroled back into the United States.

### **What happens to a TPS beneficiary when a TPS designation ends?**

TPS beneficiaries return to the immigration status that the person held prior to receiving TPS, unless that status has expired or the person has successfully acquired a new immigration status.<sup>47</sup> TPS beneficiaries who entered the United States without inspection and who are not eligible for other immigration benefits, for example, would return to being undocumented at the end of a TPS designation and become subject to removal.

## How are “Deferred Enforced Departure” and “Extended Voluntary Departure” related to TPS?

**Deferred Enforced Departure (DED)** is very similar to TPS but derives from the President’s foreign policy authority rather than from a specific law.<sup>48</sup> As of August 2021, the only countries designated for DED were Liberia, effective until June 30, 2022,<sup>49</sup> and Venezuela, effective until July 20, 2022,<sup>50</sup> as well as certain residents of Hong Kong, effective until February 5, 2023.<sup>51</sup>

- There are no explicit criteria for making DED decisions or for determining who would be eligible for DED once a designation is determined.
- Just like TPS holders, DED beneficiaries receive a work permit and stay of deportation; however, they are not permitted to travel abroad.<sup>52</sup>

While employment authorization for Liberians under DED will expire on June 30, 2022, Liberians covered by DED may be eligible for permanent resident status under Section 7611 of the National Defense Authorization Act for Fiscal Year 2020,<sup>53</sup> Liberian Refugee Immigration Fairness (LRIF).<sup>54</sup> Under the LRIF as enacted on December 20, 2019, certain Liberian nationals were given a one-year window to pursue permanent residency in the U.S.<sup>55</sup> This window was subsequently extended for an additional year, through December 20, 2021.<sup>56</sup>

**Extended Voluntary Departure (EVD)** was the predecessor to TPS prior to the Immigration Act of 1990. It was a discretionary authority used by the Attorney General (at a time when the Immigration and Naturalization Service was housed in DOJ) to give nationals of certain countries experiencing turbulent country conditions temporary permission to remain in the United States. Congress eliminated EVD with the creation of TPS.

## Endnotes

1. 8 U.S.C. § 1254a.
2. Immigration Act of 1990, Pub. L. 101-649, 104 Stat. 4978 (1990).
3. *Ibid.*
4. *Ibid.*
5. Congressional Research Service, *Temporary Protected Status and Deferred Enforcement Departure*, May 28, 2021, 5, <https://fas.org/sgp/crs/homesecc/RS20844.pdf>.
6. 8 U.S.C. § 1254a(b). Note that TPS designations based on an environmental disaster also require the foreign state to officially request designation. This request is not required for TPS designations for other reasons.
7. 8 U.S.C. § 1254a.
8. *Ibid.*
9. 8 U.S.C. § 1254a(b). Occasionally, the Secretary will re-designate a country for TPS, which is different from an extension in that it updates the physical presence requirement to allow those foreign nationals who have arrived in the United States since the previous designation to apply for TPS.
10. *Ibid.*
11. 8 *C.F.R.* § 244.19.
12. *Ibid.*
13. 8 *C.F.R.* § 244.
14. *Ibid.* § 244.7.
15. 8 U.S.C. § 1254a(a).
16. 8 *C.F.R.* § 244.15.
17. 8 U.S.C. § 1254a(f).
18. U.S. Citizenship and Immigration Services (USCIS), “Countries Currently Designated for TPS,” last updated September 9, 2021, <https://www.uscis.gov/humanitarian/temporary-protected-status>.
19. Designation of Burma (Myanmar) for Temporary Protected Status, 86 Fed. Reg. 28132 (May 25, 2021), <https://www.federalregister.gov/documents/2021/05/25/2021-11075/designation-of-burma-myanmar-for-temporary-protected-status>.
20. Notice of Continuation of Temporary Protected Status and related documentation for Certain TPS beneficiaries, 86 Fed. Reg. 50725 (Sep. 10, 2021), <https://www.federalregister.gov/documents/2021/09/10/2021-19617/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-el>.
21. *Ibid.*
22. *Ibid.*
23. *Ibid.*
24. *Ibid.*
25. Extension and Redesignation of Somalia for Temporary Protected Status, 86 Fed. Reg. 38744 (July 22, 2021), <https://www.federalregister.gov/documents/2021/07/22/2021-15595/extension-and-redesignation-of-somalia-for-temporary-protected-status>.
26. Extension of the Designation of South Sudan for Temporary Protected Status, 85 Fed. Reg. 69344 (Nov. 3, 2020), <https://www.federalregister.gov/documents/2020/11/02/2020-24238/extension-of-the-designation-of-south-sudan-for-temporary-protected-status>.
27. Notice of Continuation of Temporary Protected Status and related documentation for Certain TPS beneficiaries, 86 Fed. Reg. 50725 (Sep. 10, 2021), <https://www.federalregister.gov/documents/2021/09/10/2021-19617/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-el>.

28. Extension of the Designation of Syria for Temporary Protected Status, 86 Fed. Reg. 14946 (Mar. 19, 2021), <https://www.federalregister.gov/documents/2021/03/19/2021-05715/extension-and-redesignation-of-syria-for-temporary-protected-status>.
29. Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure, 86 Fed. Reg. 13574 (Mar. 9, 2021), <https://www.federalregister.gov/documents/2021/03/09/2021-04951/designation-of-venezuela-for-temporary-protected-status-and-implementation-of-employment>.
30. Extension and Redesignation of Yemen for Temporary Protected Status, 86 Fed. Reg. 36295 (July 9, 2021), <https://www.federalregister.gov/documents/2021/07/09/2021-14670/extension-and-redesignation-of-yemen-for-temporary-protected-status>.
31. Termination of the Designation of Angola for Temporary Protected Status, 68 Fed. Reg. 3896 (Jan. 27, 2003), <https://www.federalregister.gov/d/03-1994>.
32. Termination of the Designation of Bosnia-Herzegovina for Temporary Protected Status, 65 Fed. Reg. 52789 (Aug. 30, 2000), <https://www.federalregister.gov/d/00-22138>.
33. Termination of the Designation of Burundi for Temporary Protected Status; Automatic Extension of Employment Authorization Documentation for Burundi TPS Beneficiaries, 72 Fed. Reg. 61172 (Oct. 29, 2007), <https://www.federalregister.gov/d/E7-21128>.
34. Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Guinea's Designation for Temporary Protected Status, 81 Fed. Reg. 66064 (Sep. 26, 2016), <https://www.federalregister.gov/d/2016-23244>.
35. Six-Month Extension and Termination of Designation of Guinea-Bissau under the Temporary Protected Status Program, 65 Fed. Reg. 15016 (Mar. 20, 2000), <https://www.govinfo.gov/content/pkg/FR-2000-03-20/pdf/00-6750.pdf>.
36. Termination of the Province of Kosovo in the Republic of Serbia in the State of the Federal Republic of Yugoslavia (Serbia-Montenegro) Under the Temporary Protected Status Program, 65 Fed. Reg. 33356 (May 23, 2000), <https://www.federalregister.gov/d/00-12856>.
37. Termination of Designation of Kuwait under Temporary Protected Status Program, 57 Fed. Reg. 2930 (Jan. 24, 1992), <https://www.loc.gov/item/fr057016/>.
38. Termination of Designation of Lebanon under Temporary Protected Status Program, 58 Fed. Reg. 7582 (Feb. 8, 1993), <https://www.loc.gov/item/fr058024/>.
39. Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Liberia's Designation for Temporary Protected Status, 81 Fed. Reg. 66059 (Sep. 26, 2016), <https://www.federalregister.gov/d/2016-23250>.
40. Termination of the Designation of Montserrat under the Temporary Protected Status Program; Extension of Employment Authorization Documentation, 69 Fed. Reg. 40642 (Jul. 6, 2004), <https://www.federalregister.gov/d/04-15243>.
41. Termination of Designation of Rwanda under Temporary Protected Status Program after Final 6-Month Extension, 62 Fed. Reg. 33442 (June 19, 1997), <https://www.govinfo.gov/content/pkg/FR-1997-06-19/pdf/97-16050.pdf>.
42. Six-Month Extension of Temporary Protected Status Benefits for Orderly Transition Before Termination of Sierra Leone's Designation for Temporary Protected Status, 81 Fed. Reg. 66054 (Sep. 26, 2016), <https://www.federalregister.gov/d/2016-23249>.
43. 8 U.S.C. § 1254a(f).
44. *Ibid.* § 1254a.
45. *Flores v. USCIS*, 718 F.3d 548 (6th Cir. 2013); *Velasquez v. Barr*, 979 F.3d 572 (8th Cir. 2020); *Ramirez v. Brown*, 852 F.3d 954, 958 (9th Cir. 2017); *Sanchez v. Sec. U.S. Dept. of Homeland Sec.*, 967 F.3d 242 (3d Cir. 2020), cert. granted sub nom. *Sanchez v. Wolf*, 20-315, 2021 WL 77237 (U.S. Jan. 8, 2021); *Solorzano v. Mayorkas*, \_\_\_ F.3d \_\_\_, No. 19-50220, 2021 WL 365830 (5th Cir. Feb. 3, 2021); *Serrano v. United States Attorney General*, 655 F.3d 1260 (11th Cir. 2011).
46. *Sanchez v. Mayorkas*, 593 U.S. (2021), [https://www.supremecourt.gov/opinions/20pdf/20-315\\_q713.pdf](https://www.supremecourt.gov/opinions/20pdf/20-315_q713.pdf).
47. 8 U.S.C. § 1254a(f).
48. U.S. Citizenship and Immigration Services, "Deferred Enforced Departure," last updated March 12, 2021, [https://www.uscis.gov/humanitarian/deferred-enforced-departure#:~:text=Deferred%20Enforced%20Departure%20\(DED\)%20is,a%20designated%20period%20of%20time](https://www.uscis.gov/humanitarian/deferred-enforced-departure#:~:text=Deferred%20Enforced%20Departure%20(DED)%20is,a%20designated%20period%20of%20time).
49. Reinstating Deferred Enforced Departure for Liberians, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/reinstating-deferred-enforced-departure-for-liberians/>.
50. Memorandum on Deferred Enforced Departure for Certain Venezuelans, January 19, 2021, <https://trumpwhitehouse.archives.gov/presidential-actions/memorandum-deferred-enforced-departure-certain-venezuelans/>.

51. Memorandum on the Deferred Enforced Departure for Certain Hong Kong Residents, August 5, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/memorandum-on-the-deferred-enforced-departure-for-certain-hong-kong-residents/>.
52. Memorandum on Extension of Deferred Enforced Departure for Liberians, 38.2(i).
53. National Defense Authorization Act for Fiscal Year 2020, S. 1790, 116<sup>th</sup> Cong. (2019), <https://www.congress.gov/116/bills/s/1790/BILLS-116s1790enr.pdf>.
54. U.S. Citizenship and Immigration Services, "Liberian Refugee Immigration Fairness," last updated January 4, 2021, <https://www.uscis.gov/green-card/green-card-eligibility/liberian-refugee-immigration-fairness>.
55. Ibid.
56. Ibid.