

United States Senate

WASHINGTON, DC 20510

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By ESEC at 11:05 am, May 03, 2023

May 2, 2023

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th Street SW
Washington, DC 20528

The Honorable Antony Blinken
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Mayorkas and Secretary Blinken:

We urge you to issue a new Temporary Protected Status (TPS) designation for Sudan, as the current armed conflict between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF) has led to a mass exodus of individuals fleeing violence, scarcity of essential goods, and rapidly deteriorating health services. A new designation would protect current Sudanese TPS holders from returning to Sudan in the midst of this violence and would offer protected status to Sudanese nationals who arrived after March 1, 2022.

In recent weeks, violence in Sudan has claimed hundreds of lives, injured thousands, forcibly displaced tens of thousands, and terrorized many more. Despite multiple attempted ceasefires between the SAF and the RSF, intense and indiscriminate fighting continues across the country, including within the densely populated capital of Khartoum, and in the continuously conflict-stricken region of Darfur. Ongoing hostilities have led to the near collapse of the healthcare system, significantly disrupted the flow of humanitarian aid into the country, and in many cases made access to basic resources like food, water, and medication impossible.

Due to the continued threat of armed conflict, on April 22, 2023, the U.S. Department of State issued a Level 4: Do Not Travel advisory and ordered the departure of Embassy employees. This is part of a broader effort by the U.S., in coordination with regional and international partners, to evacuate U.S. nationals from Khartoum and allow for a safe path into neighboring countries. Given the extremely violent clashes, deteriorating conditions, and the posture of the Department of State, it is clear that Sudan meets the standards for TPS. To that end, it is critical that a new designation be issued for Sudan that reflects the ongoing armed conflict and the continued extraordinary and temporary conditions on the ground.

It is important to note that, while the situation is rapidly changing, the threat will not subside immediately once the conflict stops. Lasting damage has been done to Sudan's telecommunications networks, electrical infrastructure, and transportation systems, including to Khartoum International Airport, making international travel extremely difficult.

Redesignating Sudan's TPS status would also provide much needed clarity for current Sudanese TPS holders and would offer protection for Sudanese individuals who entered the U.S. more recently. As you know, Sudanese nationals living in the U.S. can currently apply for TPS under

the April 2022 designation, which expires on October 19, 2023. TPS holders under the 2013 designation are facing an uncertain future due to ongoing litigation. The expiration date of TPS documentation under the 2013 designation is contingent on the outcome of the Ramos v. Nielsen case – a lawsuit determining the legality of the Trump Administration’s termination of Sudan’s 2013 designation – which could potentially remove status for TPS holders who have not applied under the 2022 designation.

Additionally, while TPS holders registered under the 2022 designation are exempt from the ongoing litigation, their protection expires in October. Further, there is currently no recourse for Sudanese nationals who have arrived in the U.S. after March 2022. This uncertainty and the continued dangerous circumstances in Sudan have created considerable hardship for TPS recipients and their families, including American-born children.

A new TPS designation for Sudan would protect eligible beneficiaries from the dangers they face if they were removed and would provide protection for newer arrivals. In light of these considerations, we strongly urge you to redesignate TPS for Sudan to ensure that Sudanese nationals already living in the U.S. are not forced to return to a nation facing violence and instability.

Thank you for your consideration of this important matter.

Sincerely,



Mark R. Warner
United States Senator



Tim Kaine
United States Senator



U.S. Citizenship
and Immigration
Services

June 5, 2023

The Honorable Mark R. Warner
United States Senate
Washington, DC 20510

Dear Senator Warner:

Thank you for your May 2, 2023 letter to the Department of Homeland Security (DHS) requesting an extension and redesignation of Temporary Protected Status (TPS) for Sudan. I am responding on behalf of the Department, as U.S. Citizenship and Immigration Services (USCIS) advises the Secretary on TPS issues and implements the programs.

As you are aware, the Secretary of Homeland Security may designate a country for TPS and extend or terminate a country's existing TPS designation based upon specific statutory criteria. In order to designate a country for TPS or extend a country's TPS designation, the Secretary must find one or more of the following: (1) there is an ongoing armed conflict within the country that would pose a serious threat to the personal safety of the country's nationals if they were returned; (2) there has been an environmental disaster resulting in a substantial, but temporary, disruption of the living conditions in the area affected, the country is temporarily unable to handle adequately the return of its nationals, and the country has officially requested TPS designation; or (3) there exist extraordinary and temporary conditions in the country that prevent nationals from returning in safety, and the Secretary does not find that permitting the country's nationals to remain temporarily in the United States would be contrary to the national interest of the United States.¹

At least 60 days before the expiration of a TPS designation or extension, the Secretary must review the country conditions to determine whether they continue to meet the conditions for the TPS designation.² If the Secretary determines that conditions for TPS designation continue to exist, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months.³ DHS makes decisions to designate a country for TPS after consultation with interagency partners and careful consideration of the individual country's circumstances.

Sudan was initially designated for TPS on November 4, 1997, due to (1) an ongoing armed conflict and (2) extraordinary and temporary conditions within Sudan preventing nationals from returning to Sudan in safety.⁴ Subsequently, in October 2017, the Acting Secretary of

¹ See Immigration and Nationality Act § 244(b)(1), 8 U.S.C. § 1254a(b)(1).

² See INA § 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A).

³ See INA § 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C).

⁴ See Designation of Sudan Under Temporary Protected Status, 62 FR 59737 (Nov. 4, 1997).

Homeland Security at the time announced the termination of Sudan's TPS designation effective November 2, 2018.⁵ The termination of Sudan's TPS designation is being challenged in a lawsuit, and court injunctions require DHS to temporarily continue TPS for Sudan pending further court order.⁶ Most recently, Secretary Mayorkas newly designated Sudan on the basis of extraordinary and temporary conditions effective April 19, 2022, through October 19, 2023.⁷

DHS also offers support that may be available upon request to assist eligible individuals affected by special situations, including Sudanese nationals and others who last habitually resided in Sudan. This support may include:

- Change or extension of nonimmigrant status for noncitizens currently in the United States, even if the request is filed after the authorized period of admission has expired;
- Expedited processing of requests for advance parole documents;
- Expedited adjudication of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
- Expedited adjudication of employment authorization applications, where appropriate;
- Assistance if applicants received a Request for Evidence or a Notice of Intent to Deny and were unable to appear for an interview, submit evidence, or respond in a timely manner because of the special situation; and
- Replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card).

More information is available at <https://www.uscis.gov/humanitarian/special-situations>.

I appreciate the concerns you have outlined regarding the situation in Sudan and the information you have provided; please be assured that DHS continues to monitor in-country conditions.

Thank you again for your letter and interest in this important issue. Senator Kaine, the cosigner of your letter, will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,



Ur M. Jaddou
Director

⁵ For general history of TPS designations, redesignations and extensions for Sudan, see 81 FR 4045 (Jan. 25, 2016). See also Termination of the Designation of Sudan for Temporary Protected Status, 82 FR 47228 (Oct. 11, 2017).

⁶ See *Ramos v. Nielsen*, 336 F. Supp. 3d 1075 (N.D. Cal. 2018), vacated, 975 F.3d 872 (9th Cir. 2020), *pet. for reh'g en banc granted*, 59 F.4th 1010 (9th Cir. 2023).

⁷ See *Designation of Sudan for Temporary Protected Status*, 87 FR 23202 (Apr. 19, 2022).