

September 15, 2022

RECEIVED

By ESEC at 1:43 pm, Sep 22, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500
president@whitehouse.gov

Secretary Alejandro Mayorkas
U.S. Department of Homeland Security
301 7th Street, SW
Washington, DC 20528
dhssecretary@hq.dhs.gov

Dear President Biden and Secretary Mayorkas:

We respectfully call on you to take action to protect hundreds of thousands of Temporary Protected Status (TPS) holders who remain in limbo, now four years after the Trump Administration attempted to end their lawful immigration status. Specifically, we ask you to commit to a just settlement of the *Ramos* litigation and re-designation of El Salvador, Honduras, Nepal, and Nicaragua for TPS before their designations expire on December 31 of this year.

Together, our unions represent hundreds of thousands of U.S. workers. Many of our union members are TPS holders. TPS residents are contributors. The average TPS resident works 40-45 hours per week. They pay taxes; many own homes and support families. Several hundred thousand U.S. citizen children have at least one parent who holds TPS. Ending TPS would tear their families apart.

Stripping the employment authorization of TPS residents would also devastate our economy. Laying off long-term residents who hold TPS would cost employers \$967 million in turnover costs. It would cost \$164 billion in lost GDP, plus \$6.9 billion in lost Social Security and Medicare payments over a decade. And it would drive hundreds of thousands of immigrant workers into the shadows, driving down working conditions for all American workers.

During the presidential campaign, you committed to protect TPS holders. We recognize and applaud DHS's decision to re-designate Haiti and Sudan for TPS. We are hopeful DHS will similarly do the right thing with respect to El Salvador, Honduras, Nepal and Nicaragua.

We believe it is imperative that your Administration demonstrate its commitment to TPS holders by arriving at a fair, equitable settlement in the *Ramos* case and re-designating El Salvador, Honduras, Nepal, and Nicaragua for TPS as soon as possible.

We thank you for your time and attention to this important issue.

Sincerely,

International Union of Painters and Allied Trades (IUPAT)

International Association of Bridge, Structural, Ornamental and
Reinforcing Iron Workers (IW)



October 25, 2022

The International Union of Painters and Allied Trades
7234 Parkway Drive
Hanover, MD 21076
410-564-5900
mail@iupat.org

Dear IUPAT:

Thank you for your September 15, 2022 letter to the Department of Homeland Security (DHS). Secretary Mayorkas asked that I respond on his behalf.

The Secretary of Homeland Security may designate or redesignate a country for Temporary Protected Status (TPS) and extend or terminate a country's existing TPS designation based upon specific statutory criteria. To designate a country for TPS or extend a country's TPS designation, the Secretary must find one or more of the following facts: (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 the Secretary required their return; (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 exists extraordinary and temporary conditions in the country that prevent nationals from returning in safety, and that permitting the country's nationals to remain temporarily in the United States would not be contrary to the national interest of the United States. *See* Immigration and Nationality Act § 244(b)(1).

El Salvador, Honduras, Nicaragua, and Nepal were previously designated for TPS due to environmental disasters that occurred in their respective countries, resulting in a substantial disruption of living conditions.¹ Following a review of the country conditions and consultation with appropriate U.S. government agencies, former Secretaries and Acting Secretaries of Homeland Security announced the termination of the designations of TPS for Nicaragua in 2017 and for El Salvador, Honduras, and Nepal in 2018.²

¹ El Salvador was designated for TPS on March 9, 2001, following a series of earthquakes occurring in 2001 (66 FR 14214); Honduras (64 FR 524) and Nicaragua (64 FR 526) were designated for TPS on January 5, 1999 following Hurricane Mitch; Nepal was designated for TPS on June 24, 2015 following a series of earthquakes in 2015 (80 FR 36346).

² DHS announced the termination of the designations of TPS for Honduras on June 5, 2018 (83 FR 26074), El Salvador on January 18, 2018 (83 FR 2654), Nepal on May 22, 2018 (83 FR 23705), and Nicaragua on December 15, 2017 (82 FR 59636).

There is ongoing litigation regarding these TPS termination decisions. As required by a preliminary injunction and related court orders, the terminations of TPS for El Salvador, Honduras, Nicaragua, and Nepal are enjoined or otherwise on hold.³ U.S. Citizenship and Immigration Services (USCIS) is continuing the TPS and TPS-related documentation of affected beneficiaries under the designations for El Salvador, Honduras, Nicaragua, Sudan, Haiti, and Nepal in compliance with these court orders.⁴ This TPS-related documentation includes Employment Authorization Documents, Forms I-797, Notice of Action, and Forms I-94, Arrival/Departure Record.⁵ USCIS has announced the continuation of these TPS programs on its website and will publish subsequent notices, as needed, while the court orders remain in effect.⁶

In addition to TPS, USCIS offers support that may be available, upon request, to assist eligible noncitizens who have been affected by conditions in their countries, which includes the following aid:

- Change or extension of nonimmigrant status if eligible noncitizens are 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 natural disaster; and

³ See *Ramos, et al. v. Nielsen, et al.*, 336 F. Supp.3d 1075 (N.D. Cal. 2018)(preliminary injunction; although the injunction was vacated by a panel of the 9th Cir., it remains in effect; plaintiffs' request for *en banc* review is pending, see *Ramos, et al. v. Wolf, et al.*, No. 18-16981 (9th Cir., Sept. 14, 2020) vacating the district court's injunction that prohibited DHS from terminating TPS for El Salvador, Nicaragua, Sudan, and Haiti); *Bhattarai et al. v. Nielsen et al.*, No. 19-cv-731 (N.D. Cal., March 12, 2019)(proceedings stayed in challenge to terminations of TPS for Honduras and Nepal; approving parties' stipulated agreement that TPS and TPS-related documentation for affected beneficiaries will be continued on same terms as for *Ramos* plaintiffs while *Ramos* appeal is pending). The 2018 preliminary injunction in *Ramos* also enjoins DHS from terminating the TPS designations of Haiti and Sudan that were in effect at that time, however Haiti and Sudan have been designated anew in 2021 and 2022, respectively. See 86 FR 41863 (Aug. 3, 2021) (Haiti); 87 FR 23202 (Apr. 19, 2022) (Sudan).

⁴ See 86 FR 50725 (Sept. 10, 2021) (most recent notice continuing TPS and TPS-related documentation through December 31, 2022, for TPS beneficiaries affected by the court orders).

⁵ DHS has extended TPS-related documents for eligible beneficiaries of Nepal and Honduras, as has been done for the TPS beneficiaries in *Ramos v. Nielsen*, No. 18-cv-01554 (N.D. Cal), (challenging the terminations of TPS for El Salvador and Nicaragua, as well as other covered TPS beneficiaries). The district court in *Bhattarai* has stayed proceedings pending the outcome of the government's appeal in *Ramos*. The termination of TPS for Honduras, El Salvador, Nicaragua, and Nepal will not take effect while the *Ramos* and *Bhattarai* injunctions are in place. As noted, new TPS designations for Haiti and Sudan have already occurred.

⁶ See <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-el-salvador> (continuing TPS for El Salvador); <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-honduras> (continuing TPS for Honduras); <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-nicaragua> (continuing TPS for Nicaragua); and <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-nepal> (continuing TPS for Nepal).

- Replacement of lost or damaged immigration or travel documents issued by USCIS, such as a Permanent Resident Card (Green Card).

More information on these options is available under “Special Situations” on the USCIS website at <https://www.uscis.gov/humanitarian/special-situations>.

Thank you for the information you have provided regarding the impact TPS beneficiaries have on the U.S. economy and workforce. DHS is committed to administering its programs, including TPS, in an equitable manner. DHS continues to closely monitor the conditions in El Salvador, Honduras, Nicaragua, and Nepal. Decisions to redesignate TPS are made after consultation with interagency partners and careful consideration of the circumstances of the country and in accordance with the TPS statute noted earlier. Due to the ongoing litigation, DHS is unable to comment further on the concerns regarding TPS for these countries in your letter.

Thank you again for your letter and interest in this important issue. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal flourish extending to the right.

Ur M. Jaddou
Director