

February 25, 2022

RECEIVED

By ESEC at 12:33 pm, Feb 28, 2022

The Honorable Joseph R. Biden, Jr.
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

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

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

RE: URGENT REQUEST FOR NEW 18-MONTH DESIGNATIONS OF TPS OR DED AND SSR FOR UKRAINE

Dear President Biden, Secretary Mayorkas and Secretary Blinken,

The below 177 organizations request an immediate 18-month designation of Temporary Protected Status (TPS) or Deferred Enforced Departure (DED) and Special Student Relief (SSR) for Ukraine. Escalating violence and the devolving humanitarian crisis post-Russian military invasion makes it impossible for Ukrainians currently in the U.S. to safely return to Ukraine at this time. Migration Policy Institute estimates that roughly 30,000 Ukrainians in the United States would be potential beneficiaries of TPS or DED, as they do not have U.S. citizenship or permanent status.¹

I. TEMPORARY PROTECTED STATUS (TPS), DEFERRED ENFORCED DEPARTURE (DED), AND SPECIAL STUDENT RELIEF (SSR)

TPS is a statutory status that allows people from a designated country to remain in the United States while conditions in their home country make safe return impossible.² The Secretary of the U.S. Department of Homeland Security (DHS) can designate a country for TPS if conditions in that country meet the requirements regarding ongoing armed conflict, natural disaster, or other extraordinary and temporary conditions preventing a safe return.³ These requirements are outlined in the Immigration and Nationality Act (INA).⁴ Those who are granted TPS are eligible to receive work permits and remain in the United States during the designation period. Significantly, TPS can safeguard those who have been denied or may be ineligible for asylum but are still in need of lifesaving protection.

¹ Julia Gelatt, Twitter Post, Migration Policy Institute, February 24, 2022, https://twitter.com/J_Gelatt/status/1496964648188456964.

² Temporary Protected Status, USCIS, <https://www.uscis.gov/humanitarian/temporary-protected-status>.

³ *Id.*

⁴ INA §244.

DED is rooted in the President's authority to conduct foreign affairs and is a critical foreign policy tool to provide humanitarian protection.⁵ Like TPS, DED provides protection from deportation and eligibility for work permits for designated time periods.⁶

SSR may be granted to students from a designated country under an emergent circumstances designation.⁷ The Secretary of DHS may give this designation to F-1 students facing unforeseen, severe economic hardship.⁸ This hardship must result from an emergent event, such as war or military conflict.⁹ SSR allows eligible students to remain in the U.S. by suspending or altering rules regarding status, full course of study, and work eligibility during the designation period.¹⁰ SSR, like TPS, provides life-saving protection.

The "extraordinary and temporary conditions" which would qualify Ukrainians in the United States for TPS include current armed conflict. The "severe economic hardship" that would qualify Ukrainian F-1 students is the emergent armed conflict. The country conditions analysis below will demonstrate that conditions in Ukraine merit TPS and SSR designations due to armed conflict and extraordinary and temporary conditions as a return to the country would pose a serious threat to the personal safety of Ukrainians. The below described conditions also make a clear policy argument for DED.

II. UKRAINE'S ARMED CONFLICT

On February 23, 2022, Russia launched a military invasion of Ukraine and advanced toward the capital in Kyiv.¹¹ The Ukrainian government reported 40 casualties within the first 12 hours of the invasion.¹² As the situation continues to devolve, it will prove difficult if not impossible for Ukrainians to safely return to the country in the immediate future.

On February 12, 2022, the U.S. Department of State issued a Level 4: Do Not Travel advisory to Ukraine.¹³ In the advisory, the Department of State wrote that "U.S. citizens in Ukraine should be aware that the U.S. government will not be able to evacuate U.S. citizens in the event of Russian military action anywhere in Ukraine. Military action may commence at any time and without warning and would also severely impact the U.S. Embassy's ability to provide consular

⁵ Jill Wilson, Temporary Protected Status and Deferred Enforced Departure, Congressional Research Service, RS20844 (August 9, 2021), <https://crsreports.congress.gov/product/pdf/RS/RS20844>.

⁶ *Id.*

⁷ Special Student Relief, U.S. Department of Homeland Security, accessed February 24, 2022, <https://studyinthestates.dhs.gov/students/special-student-relief>.

⁸ *Id.*

⁹ Emergent Circumstances versus Temporary Protected Status: What is the Difference?, Department of Homeland Security (Nov. 8, 2021), <https://studyinthestates.dhs.gov/2017/11/emergent-circumstances-versus-temporary-protected-status-what-difference>.

¹⁰ Special Student Relief, Department of Homeland Security, <https://studyinthestates.dhs.gov/students/special-student-relief>.

¹¹ Statement by President Biden on Russia's Unprovoked and Unjustified Attack on Ukraine, The White House (Feb. 23, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/23/statement-by-president-biden-on-russias-unprovoked-and-unjustified-attack-on-ukraine/>.

¹² Zelenskiy Says Ukraine Has Suffered 'Serious Losses' After Russian Air Strikes Pound Dozens Of Targets, Radio Free Europe (Feb. 24, 2022), <https://www.rferl.org/a/putin-ukraine-military-operation/31719680.html>.

¹³ Ukraine Travel Advisory, Department of State (Feb. 12, 2022), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/ukraine-travel-advisory.htm>.

services, including assistance to U.S. citizens in departing Ukraine.”¹⁴ On February 13, 2022, the Department of State suspended consular services at the U.S. Embassy in Kyiv, the capital of Ukraine, and moved them to Lviv, further from the Russian border.¹⁵

Senior Biden administration officials briefed lawmakers on February 3, 2022, warning that a full invasion could result in potential deaths of 25,000 to 50,000 civilians, 5,000 to 25,000 members of the Ukrainian military, and 3,000 to 10,000 members of the Russian army.¹⁶ Officials also estimated that it would produce one million to five million refugees.¹⁷ The human costs of armed conflict are clear and will contribute to current humanitarian crises in the country. There are already almost 1.5 million internally displaced people in Ukraine from conflict.¹⁸ Last year, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated that 3.4 million people living in Ukraine need humanitarian assistance.¹⁹ The Ukraine Humanitarian Response Plan (HRP) called for \$168 million to assist 1.9 million people in 2021.²⁰ However, in August 2021, the Ukraine HRP was only 27 percent funded, demonstrating a level of unmet need even before the current military invasion.²¹

Given the already unmet humanitarian need in the country and the effects of armed conflict with Russia, Ukraine is in no state to receive TPS/DED and SSR eligible Ukrainians. Returning these Ukrainians to an at-war country would further destabilize the precarious conditions. For this reason, TPS/DED and SSR for Ukraine support humanitarian interests and address U.S. foreign policy goals by alleviating pressure on the Ukrainian government while the crisis is underway and help stabilize Europe by not adding to the predicted refugee crisis. Returning these nationals to the country poses a serious threat to their personal safety.

III. CONCLUSION

Ukraine is in the middle of armed conflict contributing to deteriorating country conditions and humanitarian crises. We urge the administration to: (1) immediately designate TPS or DED and SSR for Ukraine, (2) publish timely Federal Register Notices, and (3) launch a public information campaign to notify the impacted community of the decision and any actions they must take by the decision’s announcement.

Please contact the following individuals to discuss this urgent matter: Matthew La Corte, Niskanen Center at mlacorte@niskanencenter.org, Lora Adams, TPS-DED Administrative Advocacy Coalition at lora@masadc.com, Catharine Christie, U.S. Committee for Refugees and

¹⁴ *Id.*

¹⁵ Consular Services Suspended at U.S. Embassy Kyiv, Department of State (Feb. 15, 2022), <https://travel.state.gov/content/travel/en/traveladvisories/ea/suspension-of-consular-services-at-US-embassy-Kyiv.html>.

¹⁶ Helene Cooper and David E. Sanger, U.S. Warns of Grim Toll if Putin Pursues Full Invasion of Ukraine, New York Times (Feb. 5, 2022), <https://www.nytimes.com/2022/02/05/us/politics/russia-ukraine-invasion.html>.

¹⁷ *Id.*

¹⁸ Обліковано 1 473 650 внутрішньо переміщених осіб; Ukraine: Internally Displaced Persons, UNHCR, <https://www.unhcr.org/ua/en/internally-displaced-persons>.

¹⁹ Humanitarian Needs Overview 2021: Ukraine, OCHA (Feb. 2021), https://reliefweb.int/sites/reliefweb.int/files/resources/hno_2021-eng_-_2021-02-09.pdf

²⁰ Ukraine Humanitarian Funding Priorities (Aug. - Dec. 2021), OCHA (Aug. 18, 2021), <https://reliefweb.int/report/ukraine/ukraine-humanitarian-funding-priorities-august-december-2021-en-uk>.

²¹ *Id.*

Immigrants at christie@uscrimail.org, and Lisa Parisio, Catholic Legal Immigration Network, Inc., at lparisio@cliniclegal.org.

Sincerely,

National

ADL (Anti-Defamation League)
African Communities Together
Aldea - The People's Justice Center
Alianza Americas
America's Voice
American Friends Service Committee (AFSC)
American Immigration Council
American Immigration Lawyers Association
American-Arab Anti-Discrimination Committee (ADC)
Amnesty International USA
Asylum Seeker Advocacy Project (ASAP)
AsylumConnect
Becoming American Institute
Bethany Christian Services
Bipartisan Policy Center Action
Border Network for Human Rights
CASA REINA SISTERS OF OUR LADY GUADALUPE ST. JOSEPH
Catholic Legal Immigration Network, Inc.
Center for Disability Rights
Center for Gender & Refugee Studies
Church World Service
Coalition on Human Needs
Dominican Sisters
Dominican Sisters of Adrian
Emgage Action
Empowering Pacific Islander Communities (EPIC)
Episcopal Network for Economic Justice
Equality Labs
Ethiopian Community Development Council, Inc.
Evangelical Lutheran Church in America
Faith in Public Life
Franciscan Action Network
Franciscan Sisters of the Sacred Heart
Friends Committee on National Legislation
Haitian Bridge Alliance
HIAS
Hispanic Federation
Human Rights First
ICNA Council for Social Justice
Immigration Hub
International Rescue Committee
J Street
Jean-Michele's Cousteau Ocean Futures Society
Jewish Council for Public Affairs
Jewish Federations of North America

Justice Action Center
Kids in Need of Defense (KIND)
Leadership Conference of Women Religious
Leadership Team of the Felician Sisters of North America
Lights for Liberty
Lutheran Immigration and Refugee Service
NAFSA: Association of International Educators
National Asian Pacific American Families Against Substance Abuse
National Association of Evangelicals
National Council of Jewish Women
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Iranian American Council
National Justice for Our Neighbors
National Organization for Women
National Partnership for New Americans
NETWORK Lobby for Catholic Social Justice
Network of Jewish Human Service Agencies
Niskanen Center
Path With Heart
Presidents' Alliance on Higher Education and Immigration
Project Lifeline
Quinnipiac University School of Law Civil Justice Clinic
RAICES
Refugee Congress
Refugees International
RefugePoint
Revolutionary Love Project
Robert F Kennedy Human Rights
Sisters of Charity Federation
Sisters of Mercy of the Americas Justice Team
Sisters of St. Francis, Clinton, Iowa
Student Clinic for Immigrant Justice
Tahirih Justice Center
The Episcopal Church
The Hidden Dream
U.S. Committee for Refugees and Immigrants (USCRI)
U.S. Federation of the Sisters of St. Joseph
Ukrainian American Bar Association
Ukrainian National Women's League of America
UndocuBlack Network
Union for Reform Judaism
Unitarian Universalist Association
Unitarian Universalist Service Committee
United Stateless
Welcoming America
Win Without War
Witness at the Border
Women's Alliance for Theology, Ethics, and Ritual (WATER)
Women's Refugee Commission (WRC)

Workplace Fairness

State/Local

Adhikaar
Al Otro Lado
Alianza Sacramento
Arkansas United
Ayuda
Bellevue Program for Survivors of Torture
Benedictine Sisters of Chicago
Benedictine Sisters of FL
Benson & Loesch, PLLP
Broward for Progress
Cabrini Immigrant Services of NYC, Inc.
Catholic Charities Boston
Catholic Charities of SW Kansas
Central American Resource Center
Central American Resource Center of Northern CA - CARECEN SF
Centro Romero
Church of Our Saviour/La Iglesia de Nuestro Salvador
Church of the Ascension
Church Women United in New York State
Cleveland Jobs with Justice
Congregation Kol Ami
Cooperative Baptist Fellowship of Texas
Council for the Spanish Speaking Inc DBA Centro Hispano
Dominican Sisters of Mission San Jose
Family Action Network Movement
Farmworker Association of Florida
Florence Immigrant & Refugee Rights Project
Greater Cleveland Immigrant Support Network
Heartfelt Tidbits, Inc.
HIAS and Council Migration Services of Philadelphia DBA HIAS PA
Hope Border Institute
IHM Sisters Justice, Peace and Sustainability Office
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Action Alliance
Immigrant Advocates Response Collaborative Inc.
Immigrant Defenders Law Center
Immigrant Hope - Brooklyn, NY
Immigrant Law Center of Minnesota
Indivisible Chicago-South Side
Intercommunity Justice and Peace Center
International Institute of New England
Jewish Federation of Chicago
Justice for Our Neighbors Michigan
Law Office of Peggy J Bristol
Long Island Immigration Clinic
Lutheran Church of Our Redeemer
Mainers for Accountable Leadership Action

Migrant Center for Human Rights
MinKwon Center for Community Action
New Sanctuary Movement of Atlanta
New York Annual Conference Board of Church and Society
New York Justice for Our Neighbors, Inc.
Oasis Legal Services
Oregon Chapter of Fellowship of Reconciliation
Oregonizers
Pennsylvania Council of Churches
Pilipino Workers Center
Seattle Immigrant Rights Action Group
Sisters of Charity of New York
Sisters of St Joseph Brentwood
Sisters of St. Dominic of Blauvelt, New York
Sisters of St. Joseph of Boston
Sisters of St. Joseph of Carondelet, LA
St. Matthew's Episcopal Church Tucson
Tennessee Justice for Our Neighbors
The Compassionate Justice Project
The Legal Project, Inc.
TRUE ALLIANCE CENTER INC
Ugryn Law
Ukrainian Community Center of Washington
Ukrainian Student Association of Purdue University
United Vision for Idaho
University YMCA New American Welcome Center
Venezuelans and Immigrants Aid (VIA)
Wallingford Indivisible
Wayne Action for Racial Equality
WESPAC Foundation, Inc.
Westchester Citizen Therapists Indivisible
Westchester Jewish Coalition for Immigration
Wind of the Spirit Immigrant Resource Center



**U.S. Citizenship
and Immigration
Services**

May 16, 2022

Matthew La Corte
Niskanen Center
mlacorte@niskanencenter.org

Dear Mr. La Corte:

Thank you for your February 25, 2022 letter to the Department of Homeland Security (DHS) requesting Temporary Protected Status (TPS) or Deferred Enforced Departure for Ukrainian nationals, and Special Student Relief for Ukrainian students. U.S. Citizenship and Immigration Services (USCIS) is principally responsible for advising the Secretary of Homeland Security on TPS and DED issues and implementing the programs. Secretary Mayorkas asked that I respond on his behalf.

On April 21, 2022, DHS announced a new streamlined process, Uniting for Ukraine (U4U), to provide Ukrainian citizens who fled Russia's unprovoked war of aggression with opportunities to come to the United States.¹ To be eligible, Ukrainians must have been residents in Ukraine as of February 11, 2022, have a U.S.-based supporter, complete vaccinations and other public health requirements, and pass biometric and biographic screening and security background checks.

As of April 25, 2022, U.S.-based individuals interested in supporting Ukrainian beneficiaries can file a Form I-134, Declaration of Financial Support, with USCIS as the first step in the U4U process. Individuals are vetted to ensure they can assist those they agree to support. USCIS will reach out to the Ukrainians named in approved Forms I-134 with instructions on how to initiate vetting and apply for a travel document that will authorize them to travel to the United States and be considered for parole, on a case-by-case basis, for a period of two years. Once paroled through this process, Ukrainians are eligible to apply for employment authorization. More details on who is eligible to provide support and who can be considered for parole under U4U can be found on the U4U landing page.²

Secretary Mayorkas also announced the designation of Ukraine for TPS for 18 months to offer protection for individuals who have been residing in the United States since April 11, 2022 and who are nationals or who last habitually resided in Ukraine.³ TPS allows eligible Ukrainian nationals in the United States to remain and authorizes them to work lawfully. The Department recently published a Federal Register notice with instructions for applying for TPS and an

¹ See <https://www.uscis.gov/humanitarian/uniting-for-ukraine>

² <https://www.uscis.gov/humanitarian/uniting-for-ukraine>

³ <https://www.dhs.gov/news/2022/03/03/secretary-mayorkas-designates-ukraine-temporary-protected-status-18-months>

Employment Authorization Document. In addition, USCIS recently released an alert providing individuals with critical information about immigration avenues that may be available entitled, *“Immigration Help Available to Those Affected by Special Situations, Including the Invasion of Ukraine.”*⁴

To further support the President’s recent commitments, DHS is also working to expand current legal pathways and develop new programs. We are coordinating our efforts closely with our European allies and partners who are on the front lines of this refugee crisis. Individuals, depending on location and circumstances, may be eligible for a nonimmigrant visa, an immigrant visa, TPS, asylum, the U.S. Refugee Admissions Program, or the new U4U process for applying for parole.⁵

Thank you again for your letter and interest in this important issue. Please share this response with the other organizations that cosigned your letter. Should you require any additional assistance, please do not hesitate to contact me.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director

⁴ <https://www.uscis.gov/newsroom/alerts/immigration-help-available-to-those-affected-by-special-situations-including-the-invasion-of-ukraine>

⁵ https://www.dhs.gov/sites/default/files/2022-03/Fact%20Sheet%20on%20DHS%20Efforts%20to%20Assist%20Ukrainian%20Nationals_1.pdf