Congressional Research Service
Informing the legislative debate since 1914

Legal Sidebar

Mullin v. Doe: Supreme Court Allows Termination of Temporary Protected Status for Haiti and Syria

July 2, 2026

On June 25, 2026, the Supreme Court in *Mullin v. Doe* held that Congress statutorily barred judicial review of all non-constitutional claims related to a decision by the Secretary of the Department of Homeland Security (DHS) to terminate a country's Temporary Protected Status (TPS) designation. Under federal immigration laws, certain aliens may remain and work in the United States if the Secretary of DHS designates their countries for TPS because of unstable or dangerous conditions in those countries. In the short term, the Court's ruling allows DHS to proceed with the termination of TPS designations for Haiti and Syria that had been stayed by federal district courts and, potentially, to pursue the removal of Haitian and Syrian nationals who had been permitted to remain in the United States through TPS and have no other legal basis to remain in this country. More broadly, the Court's interpretation of the TPS statute's judicial review bar appears to render unreviewable most DHS decisions related to the designation, extension, or termination of TPS. This Legal Sidebar provides a brief background on TPS designations and terminations, discusses the litigation and the Court's ruling in *Mullin v. Doe*, and offers considerations for Congress.

Statutory Background

Under 8 U.S.C. § 1254a(b)(1), the Secretary of DHS may grant TPS to aliens who are nationals of countries that the Secretary has designated as unsafe for return because of natural disaster, armed conflict, or other "extraordinary and temporary conditions." The initial period of TPS designation may last between 6 and 18 months and may be extended for up to 18 months, at the Secretary's discretion, with no limit on the number of extensions. An alien from a country designated for TPS who meets specified requirements may be permitted to remain and work in the United States for the period in which the TPS designation is in effect.

Section 1254a(b)(3)(A) provides that, at least 60 days before the end of the initial TPS period (and any extended period), the Secretary of DHS, "after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or part of such foreign state) for which a designation is in

Congressional Research Service
https://crsreports.congress.gov
LSB11446

effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met." Under § 1254a(b)(3)(B), if the Secretary determines that the designated country "no longer continues to meet the conditions for designation," he or she "shall terminate" the TPS designation.

Section 1254a(b)(5)(A) provides that "[t]here is no judicial review of any determination of the [Secretary of DHS] with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection." Upon termination of their respective country's TPS designation, TPS beneficiaries return to the same immigration status they had before being granted TPS (unless their prior status expired or was terminated) or they return to any lawful immigration status they obtained while registered for TPS relief (as long as the lawful status remains valid on the date that the TPS designation terminates).

Termination of TPS for Haiti and Syria

DHS designated Haiti for TPS in 2010 following an earthquake in that country, based on a determination under 8 U.S.C. § 1254a(b)(1)(C) that there were "extraordinary and temporary conditions" preventing the safe return of Haitian nationals. DHS designated Syria for TPS in 2012 based on a determination that the country's ongoing civil war resulted in "extraordinary and temporary conditions" preventing the safe return of Syrian nationals. DHS extended and newly designated TPS for Haiti and Syria on multiple occasions. (In 2018, DHS terminated the TPS designation for Haiti, and that decision was subject to litigation and federal district court orders barring the terminations while litigation continued. Eventually, DHS newly designated Haiti for TPS in 2021 and 2023.)

On September 22, 2025, then-Secretary of DHS Kristi Noem announced the termination of Syria's TPS designation, effective September 30, 2025. On November 28, 2025, Secretary Noem announced the termination of Haiti's TPS designation, effective February 3, 2026. In announcing the terminations, the Secretary explained that, in her view, the conditions in both countries no longer met the criteria for a TPS designation under § 1254a(b)(1).

Litigation in *Miot* and *Doe*

In *Miot v. Trump*, a group of Haitian TPS recipients challenged Secretary Noem's November 28, 2025, decision to terminate their country's TPS designation in the U.S. District Court for the District of Columbia. In *Doe v. Noem*, a group of Syrian TPS recipients challenged Secretary Noem's September 22, 2025, termination of Syria's TPS designation in the U.S. District Court for the Southern District of New York. The plaintiffs in both cases alleged, among other things, that the TPS terminations violated the Administrative Procedure Act (APA) because Secretary Noem failed to consult with "appropriate agencies of the Government" about the conditions in Haiti and Syria before deciding to terminate TPS. The plaintiffs also claimed that the terminations violated their right to equal protection under the Due Process Clause of the Fifth Amendment because those decisions were motivated by race, ethnicity, or national origin.

On November 19, 2025, the district court judge in *Doe* granted the plaintiffs' motion to postpone the termination of Syria's TPS designation pending a final decision on the merits of the litigation. On February 2, 2026, the district court judge in *Miot* granted the plaintiffs' motion to stay the termination of Haiti's TPS designation pending a final ruling on the merits. In both cases, the district courts rejected the government's contention that § 1254a(b)(5)(A) bars judicial review of the Secretary's TPS "determination." In *Miot*, the court reasoned that, while the statute prohibits judicial review of the decision whether to terminate a TPS designation, it does not bar review of "*how* the Secretary went about making her determination." In *Doe*, the court determined that § 1254a(b)(5)(A) does not preclude judicial review of "collateral agency patterns and practices that impact" TPS determinations.

Both district courts ruled, among other things, that Secretary Noem likely violated § 1254a(b)(3)(A) by failing to consult with "appropriate agencies of the Government" about country conditions before terminating TPS. Additionally, in *Miot*, the court held that Haiti's TPS termination likely violated the plaintiffs' right to equal protection, citing statements by President Trump that the court construed as showing "anti-black and anti-Haitian animus" that influenced Secretary Noem's decision. On the other hand, in *Doe*, the court determined that the plaintiffs failed to establish a viable equal protection claim for Syrian TPS holders because their proposed protected clause of "non-White, non-European" was "too expansive, too amorphous" to support that analysis.

The government appealed the district court decisions to the U.S. Courts of Appeals for the D.C. Circuit (Haiti) and the Second Circuit (Syria). On February 19, 2026, the Second Circuit denied the government's motion to stay the district court's order in *Doe* pending consideration of the appeal. On March 6, 2026, the D.C. Circuit, in a split 2-1 decision, denied the government's motion to stay the lower court's order in *Miot*.

The Supreme Court's Decision

In *Miot* and *Doe*, the government asked the Supreme Court to stay the district courts' orders pending consideration of its appeals to the D.C. Circuit and the Second Circuit. The government also asked the Supreme Court to treat its requests as petitions to review the district courts' orders before judgment by the appellate courts. On March 16, 2026, the Supreme Court granted the government's petitions to review the cases, consolidated the cases for review under the name *Mullin v. Doe, et al.*, and deferred consideration of the government's requests to stay the district courts' orders. On April 29, 2026, the Court heard oral argument. On June 25, 2026, in a 6-3 decision, the Supreme Court reversed the district courts' orders and remanded the cases for further proceedings "consistent with this opinion."

Majority Opinion

In the majority opinion authored by Justice Alito (joined in full by Chief Justice Roberts, Justice Thomas, and Justice Kavanaugh and joined, in part, by Justice Gorsuch and Justice Barrett), the Supreme Court held that the district courts erred in postponing the effective date of the TPS terminations for Haiti and Syria during litigation because (1) the judicial review bar in 8 U.S.C. § 1254a(b)(5)(A) "plainly bars" the plaintiffs' non-constitutional claims challenging the TPS terminations; and (2) the *Miot* plaintiffs' constitutional equal protection challenge to the Secretary's decision to terminate TPS for Haiti "will likely fail."

The Court observed that § 1254a(b)(5)(A) bars judicial review of "any determination with respect to the designation, or termination or extension of a designation" for TPS. The Court decided that the plain meaning of the term "determination" refers to a "decision" as well as "the chain of events leading up to a decision." The Court added that the presence of the phrase "with respect to" in the statute underscores that broad interpretation. The Court held that § 1254a(b)(5)(A) thus barred the plaintiffs' non-constitutional challenges to Secretary Noem's decisions to terminate TPS for Haiti and Syria because their contentions concerned specific decisions by the Secretary, such as the manner in which she consulted the State Department and her assessment of country conditions, all of which are "part of the process that led to her final decision to terminate these countries' TPS designations" or that were otherwise "with respect to" that final decision. In short, the Court determined, "the text of the TPS judicial-review bar very clearly overcomes the general presumption in favor of judicial review."

The Court rejected the plaintiffs' argument that § 1254a(b)(5)(A) does not preclude review of alleged procedural errors related to a TPS determination, as opposed to the substantive determination itself. The Court concluded that a "determination" for purposes of the judicial review bar "may concern procedural

or substantive questions." While recognizing that, in *McNary v. Haitian Refugee Center, Inc.*, and *Bowen v. Michigan Academy of Family Physicians*, the Court had previously construed judicial review bars in different statutes as not precluding review of procedural challenges to federal agency decisions related to applications for special agricultural worker status or challenges to certain regulations related to Medicare payments, the Court distinguished those cases because they involved statutory language that was more specific as to what was outside the scope of judicial review than § 1254a(b)(5)(A). The Court held that the statute barring judicial review for TPS "expressly restricts review."

The Court also rejected the plaintiffs' contention that, for purposes of § 1254a(b)(5)(A), the term "determination" applies strictly to findings about country conditions. Citing the general principle that "those who draft and enact a provision generally intend its terms to mean what they mean in ordinary usage," the Court found that the plaintiffs failed to show that, under § 1254a(b)(5)(A), the term "determination" has a specific, technical meaning that departs from its ordinary meaning. The Court also observed that other TPS-related provisions in § 1254a use the term "determination" in various ways that are unrelated to country conditions, suggesting that Congress had intended that the term "determination" was to be used "in its ordinary sense."

The Court also addressed the argument that a "determination" under § 1254a(b)(5)(A) refers only to the Secretary's "ultimate 'determination,'" rather than "any subsidiary decision" related to TPS. The Court described this narrower interpretation as "inconsistent with the plain meaning" of the term "determination," and reiterated that a "determination" may include "a discrete decision or a process leading up to a final decision." The Court decided that the plaintiffs' narrow reading of the statute conflicted with the general administrative law principle that "[i]f the final agency action is unreviewable, then so too are subsidiary determinations." The Court also rejected the notion that its broad interpretation of § 1254a(b)(5)(A) would "protect many shocking abuse of TPS," declaring that "Congress would have ample means to stop that abuse, including, for example, through the annual appropriations process." The Court thus held that "the TPS statute's judicial-review bar applies to all non-constitutional claims."

The Court did not decide whether § 1254a(b)(5)(A) barred review of the *Miot* plaintiffs' constitutional equal protection claim, explaining that congressional intent to preclude judicial review of constitutional claims "must be clear." The Court decided it did not need to resolve whether the TPS statute meets the Court's "clear-statement rule" because it held that the constitutional claim brough in *Miot* is unlikely to succeed on merits. In a portion of Justice Alito's opinion that Justice Gorsuch and Justice Barrett did not join, a four-Justice plurality of the Court further declared that courts may decide requests for interim relief during the course of litigation on jurisdictional or merits-based grounds.

Applying the Court's general standard for evaluating equal protection claims, the Court majority ruled that the *Miot* plaintiffs failed to show that a racially discriminatory purpose was a "motivating factor" in terminating Haiti's TPS designation. The Court considered statements by President Trump and Secretary Noem and determined that "[n]one of the cited statements by either the President or the Secretary was overtly racial, and in substance all expressed policy views that could rest on race-neutral justifications." Additionally, the Court determined that a claim raised by the plaintiffs that Secretary Noem made a "preordained decision" to end TPS for *all* designated countries—which the Court described as a "racially diverse group of countries"—undermined their claim.

Concurring Opinion

In a concurring opinion, Justice Thomas argued that § 1254a(b)(5)(A) also barred review of the *Miot* plaintiffs' constitutional equal protection claim. Justice Thomas further argued, in the alternative assuming jurisdiction, that the *Miot* plaintiffs' equal protection claim fails because, among other things, "aliens have no equal protection rights against the Federal Government."

Dissenting Opinion

In a dissenting opinion, Justice Kagan (joined by Justice Sotomayor and Justice Jackson) argued, among other things, that while § 1254a(b)(5)(A) bars judicial review of the ultimate "determination" whether to designate, terminate, or extend TPS, it does not bar review of the "the procedural steps the Secretary must undertake prior to making any determination about country conditions," including whether the Secretary properly consulted with other agencies. Justice Kagan argued that, even if there was uncertainty about the meaning of "determination," the general presumption in favor of judicial review of agency action warranted interpreting § 1244a(b)(5)(A) narrowly. Additionally, Justice Kagan argued that the *Miot* plaintiffs showed that a racially discriminatory purpose was likely a "motivating factor" for Secretary Noem's decision to terminate TPS for Haiti, citing statements by the President that she described as being "repellent and racially inflected."

Considerations for Congress

The Supreme Court's decision allows DHS to proceed with the terminations of TPS for Haiti and Syria for the time being, and the Court's holding that there is no judicial review of any non-constitutional claims challenging a TPS termination could impact the viability of other legal challenges to the termination of TPS designations for other countries, some of which have also resulted in district court orders blocking those respective terminations and federal appellate decisions upholding those orders.

In *Mullin v. Doe*, the Court majority addressed the contention that interpreting § 1254a(b)(5)(A)'s judicial review bar to cover any non-constitutional claims could essentially give the Secretary of DHS unfettered discretion and "protect many shocking abuses of TPS," such as issuing a 50-year TPS designation or arbitrarily terminating TPS "based on a coin-flip." While the Court's ruling recognizes the Secretary's authority over TPS designation determinations is largely unreviewable, it also confirms that Congress may employ certain legislative tools if it disagrees with the Secretary's exercise of that power, including through the appropriations process or other means. For example, the dispute arising in *Mullin* concerned the interpretation of a judicial review provision found in the TPS statute; Congress could, if it deemed it appropriate, amend that statute to permit judicial review of a broader range of actions.

In the wake of the Supreme Court's decision, some Members of Congress and advocacy groups have criticized the ruling, arguing, among other things, that it remains unsafe for individuals to return to Haiti or Syria because of reportedly dangerous and unstable conditions. Conversely, some Members of Congress have lauded the Court's decision, arguing that the TPS program was intended to provide only temporarily relief from removal and calling on DHS to ensure TPS holders with no legal basis to remain in the United States are removed or given an opportunity to voluntarily depart the country.

In the 119th Congress, some Members of Congress have introduced bills that address the TPS program or the ability of TPS recipients to remain in the United States. For example, H.R. 1689, which passed the House on April 16, 2026, would require, notwithstanding any other provision of law, the Secretary of DHS to designate Haiti for TPS until "the date that is 3 months after January 20, 2029." Other bills introduced in the 119th Congress, including the American Dream and Promise Act (H.R. 1589), the Safe Environment from Countries Under Repression and Emergency (SECURE) Act (S. 2106), and the Respect for Essential Workers Act (H.R. 7899), would allow TPS recipients who meet specified criteria to adjust to lawful permanent resident (LPR) status (8 U.S.C. § 1254a(h)(1) prohibits Senate consideration of legislation allowing TPS recipients to adjust to LPR status in the absence of a supermajority vote to waive or suspend that restriction). Conversely, the Temporary Protected Status Reform Act of 2026 (H.R. 6946) would amend 8 U.S.C. § 1254a by mandating the termination of TPS for several countries, including Syria, and prohibiting the designation of TPS for those countries except pursuant to a statute expressly authorizing such designation. The End Unaccountable Amnesty Act (H.R. 696, S. 225) and the

TPS Reform Act of 2025 (H.R. 4201) would authorize a country's designation (or extension) of TPS only pursuant to an act of Congress and bar aliens who lack a lawful immigration status from obtaining TPS relief. Additionally, the Territorial Protection and Sovereignty Act (H.R. 8460) would repeal the authority to grant TPS under § 1254a and require termination of any grant of TPS in effect on the date of enactment.

Author Information

Hillel R. Smith
Legislative Attorney

Disclaimer