

Temporary Protected Status: History and Issues for Congress

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Jill H. Wilson

Analyst in Immigration
Policy

Temporary Protected Status: History and Issues for Congress

The United States has long offered protection to foreign nationals who face jeopardy in their home countries. Various mechanisms have been incorporated into U.S. immigration law over the years to grant humanitarian protection.

Asylum is a form of humanitarian protection available to foreign nationals who are physically present in the United States and who meet the definition of *refugee*—that is, someone typically outside his or her country of nationality who is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution. Congress created temporary protected status (TPS) in 1990 to fill what it considered a gap in statutory protection for those in the United States who lacked the individualized finding of persecution necessary to qualify for asylum but whose home countries were experiencing armed conflict, natural disaster, or other extraordinary circumstances that prevented their safe return.

The TPS statute gives the Secretary of the Department of Homeland Security (DHS) the authority to designate countries for TPS for periods of six to 18 months and the authority to extend such designations if conditions continue to be met. Foreign nationals present in the United States from designated countries at the time of the designation may apply for TPS. Those granted TPS are eligible for employment authorization, cannot be detained on the basis of their immigration status, and are not subject to removal from the United States while they retain TPS.

At the beginning of the second Trump Administration, the number of designated countries (17) and the number of individuals covered by TPS (approximately 1.4 million) were at all-time highs. Since then, the Trump Administration has terminated TPS designations for 13 of the 17 countries and reduced the number of individuals covered by TPS to approximately 274,000.

Throughout the history of the program, approximately 1.7 million people from 28 countries have been granted TPS. Some countries' designations have lasted as little as one year; others have had their designations extended for decades. The average length of TPS designations since 1990 is approximately nine years. More than three quarters of TPS recipients (89%) have been nationals of countries in Latin America or the Caribbean, with Venezuela, El Salvador, and Haiti together accounting for 83% of all TPS recipients over the history of the program.

The TPS program and its implementation over the years have raised questions about whether and how it should be reformed. For example: Is TPS serving its intended purpose? Should there be a time limit on TPS designations? Should TPS beneficiaries have a pathway to permanent status? Do TPS designations encourage illegal immigration? Has the executive branch designated the appropriate countries for TPS? What TPS reforms have been proposed? If Congress chooses to take action on TPS, it might consider the various policy questions and proposals described in this report.

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The United States has long offered protection to foreign nationals who face jeopardy in their home countries.¹ Various mechanisms have been incorporated into U.S. immigration law over the years to grant humanitarian protection, including refugee status, asylum, immigration parole, withholding of removal, and temporary protected status (TPS).² Some of these allow for only temporary periods of stay in the United States, while others provide avenues for beneficiaries to live permanently in the United States.

Asylum is a form of humanitarian protection available to foreign nationals who are physically present in the United States and who meet the definition of *refugee*—that is, someone typically outside his or her country of nationality who is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. After one year of physical presence in the United States as an asylee (i.e., an alien³ who has been granted asylum), an alien may be granted lawful permanent resident (LPR) status, subject to certain requirements.⁴

Congress created TPS in 1990 to fill what it considered a gap in statutory protection for those in the United States who lacked the individualized finding of persecution necessary to qualify for asylum but whose home countries were facing generalized violence, upheaval, or environmental disaster. TPS provides *safe haven*⁵ for foreign nationals present in the United States—regardless of their immigration status—who are from designated countries experiencing armed conflict, natural disaster, or other extraordinary circumstances that prevent their safe return.

Throughout the history of the program, approximately 1.7 million people from 28 countries have been granted TPS (see **Figure 1**). Some countries' designations have lasted as little as one year, while others have been extended for decades. During congressional discussions that preceded the creation of TPS, questions arose about what to do in the case of protracted crises in designated countries.⁶ Should there be a maximum time limit for TPS designations? Should TPS beneficiaries who had been covered for a certain length of time be able to remain in the United States permanently? Congress has not enacted provisions directly addressing these questions, which continue to fuel the debate over TPS.

At the beginning of the second Trump Administration, the number of designated countries (17) and the number of individuals covered by TPS (approximately 1.4 million) were at all-time highs. On the first day of his second term in office, President Trump issued an executive order stating, "It is the policy of the United States to faithfully execute the immigration laws against all

¹ See U.S. Citizenship and Immigration Services (USCIS), "Refugee Timeline," <https://www.uscis.gov/about-us/our-history/stories-from-the-archives/refugee-timeline>; and American Immigration Council, "Executive Grants of Temporary Immigration Relief, 1956-Present," October 2014.

² For more information on these mechanisms, see CRS Report R46570, *Immigration Parole*; CRS Report RL31269, *Refugee Admissions and Resettlement Policy*; CRS Report R48802, *Development of the U.S. Asylum System: In Brief*; and CRS Report RS20844, *Temporary Protected Status and Deferred Enforced Departure*.

³ *Alien* is the term used in the Immigration and Nationality Act (INA) to mean anyone who is not a citizen or national of the United States. It is synonymous with *foreign national*.

⁴ For more information, see CRS Report R45539, *Immigration: U.S. Asylum Policy*.

⁵ *Safe haven* is a general term, not defined in federal statute or regulation, that refers to the practice of allowing certain classes of aliens to remain in the United States rather than returning them to countries experiencing dangerous conditions. Safe haven benefits individuals who entered the country without permission as well as those who had permission to enter and remain temporarily. It is a form of *blanket relief*—that is, relief from removal that is administered to a group of individuals based on their ties to a foreign country. This stands in contrast to asylum, which is a form of relief administered on a case-by-case basis to individuals based on their personal circumstances.

⁶ See, for example, U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, hearing, 100th Cong., 1st sess., October 28, 1987. For more information, see "Legislative Origins" section below.

inadmissible and removable aliens,” which included a reference to TPS. It stated, in part, that Administration officials should ensure that TPS designations are “appropriately limited in scope and made for only so long as may be necessary to fulfill the textual requirements of that statute.”⁷

Since then, the Trump Administration has terminated TPS designations for 13 of the 17 countries that had TPS designations when President Trump took office and reduced the number of individuals covered by TPS to approximately 274,000.⁸ Decisions about extending or terminating designations for the remaining four countries are due in the coming months.⁹ If designations for these four countries are terminated during this time and no new countries are designated, no one will be covered by TPS by the end of 2026, which would be a first in the 36-year history of the program.

This report describes the TPS program, reviewing its legislative origins and the country designations made over the history of the program, and raises selected policy questions that Congress might consider if it chooses to reform the program. For a more comprehensive overview of TPS, recent designations, and recent legislative activity, see CRS Report RS20844, *Temporary Protected Status and Deferred Enforced Departure*.

Overview of TPS

The TPS statute¹⁰ gives the Secretary of the Department of Homeland Security (DHS),¹¹ in consultation with other government agencies (most notably the Department of State), the authority to designate a country for TPS under one or more of the following conditions:

- *Ongoing armed conflict* in a foreign state that poses a serious threat to personal safety
- A foreign state’s request for TPS because it temporarily cannot handle the return of its nationals due to an *environmental disaster*
- *Extraordinary and temporary conditions* in a foreign state that prevent its nationals from safely returning, unless the Secretary finds that allowing its nationals to temporarily stay in the United States is against the U.S. national interest¹²

⁷ Executive Order 14159, “Protecting the American People Against Invasion,” 90 *Federal Register* 8443, January 29, 2025.

⁸ See CRS Report R49346, *Temporary Protected Status Terminations, 2025-2026: Fact Sheet*.

⁹ El Salvador’s designation was set to expire on September 9, 2026. As of the date of this report, no notice has been published in the *Federal Register* announcing the Secretary of Homeland Security’s determination to terminate or extend the designation. On September 9, USCIS posted this alert on its TPS website: “An announcement on El Salvador’s TPS will be made at the appropriate time. Until such announcement is made, Salvadoran individuals present in the U.S. under TPS retain protection including work authorization” (USCIS, “Temporary Protected Status,” <https://www.uscis.gov/humanitarian/temporary-protected-status>). Sudan’s and Ukraine’s designations are each set to expire on October 19, 2026. Lebanon’s is set to expire on November 27, 2026.

¹⁰ INA, §244 (8 U.S.C. §1254a).

¹¹ When TPS was enacted in 1990, most immigration-related functions, including designating countries for TPS, fell under the authority of the Attorney General. With the creation of DHS in 2002 (P.L. 107-296), most of the Attorney General’s immigration-related authority transferred to the Secretary of DHS as of March 1, 2003.

¹² INA, §244(b)(1)(C) (8 U.S.C. §1254a(b)(1)(C)). *National interest* is not defined in TPS statute or regulations and is left up to the discretion of the Secretary.

The Secretary of DHS can designate a country for TPS for a period of six to 18 months and can extend this period if the country continues to meet the conditions for designation.¹³ Each designation specifies the date from which individuals must have continuously resided in the United States in order to qualify. If a designation is extended, this date may be moved forward to allow those who arrived later to qualify, an action sometimes referred to as *redesignation*.

To obtain TPS, nationals¹⁴ of a foreign country designated for TPS must pay specified fees and apply to DHS's U.S. Citizenship and Immigration Services (USCIS) before the deadline set forth in the *Federal Register* notice announcing the TPS designation. The application must include supporting documentation as evidence of eligibility (e.g., a passport issued by the designated country and records showing continuous physical presence in the United States since the date established in the TPS designation).¹⁵ The statute specifies grounds of inadmissibility that cannot be waived and will result in the applicant being denied TPS, including those relating to criminal convictions, drug offenses, terrorist activity, and the persecution of others.¹⁶ Foreign nationals outside the United States are not eligible to apply for TPS.¹⁷

Individuals granted TPS are eligible for employment authorization, cannot be detained on the basis of their immigration status, and are not subject to removal from the United States while they retain TPS.¹⁸ Noncitizens are permitted to hold TPS concurrently with other statuses, including parole, nonimmigrant status, or asylee status. A grant of TPS does not provide a recipient with a designated pathway to LPR status. However, TPS recipients are not barred from acquiring LPR status if they meet the requirements for doing so.

Legislative Origins

From 1960 until 1990, the U.S. government granted temporary nationality-based relief from removal (*safe haven*¹⁹) to foreign nationals in the United States whose home countries were experiencing war or other dangerous conditions that prevented their safe return. The Attorney General conferred such relief—typically after receiving a recommendation from the Department of State—through discretionary, blanket grants of extended voluntary departure (EVD).²⁰ Decisions to grant or not grant EVD took into account foreign policy, immigration, and humanitarian concerns.²¹ As one legal scholar described it, EVD allowed the United States to

¹³ Extensions can be for six, 12, or 18 months. The TPS statute does not place a limit on the number of extensions.

¹⁴ In addition to nationals of designated countries, the INA provides that aliens with no nationality who “last habitually resided in such designated state” are eligible to apply. INA, §244(a)(1) (8 U.S.C. §1254a(a)(1)).

¹⁵ See 8 C.F.R. §244.9 for details on evidence that must be submitted.

¹⁶ Section 212 of the INA specifies broad grounds on which foreign nationals are considered ineligible to receive visas or be admitted to the United States. Section 244(c)(2) of the INA lists which of these grounds of inadmissibility may be waived and which may not be waived in the case of TPS applicants. See also CRS In Focus IF12662, *Immigration: Grounds of Inadmissibility*.

¹⁷ INA, §244(c)(5) (8 U.S.C. §1254a(c)(5)).

¹⁸ INA, §244(a)(1)(A)-(B) (8 U.S.C. §1254a(a)(1)(A)-(B)) and INA, §244(d)(4) (8 U.S.C. §1254a(d)(4)).

¹⁹ See footnote 5.

²⁰ Approximately 15 nationalities received EVD between 1960 and 1990. See Lynda J. Oswald, “Extended Voluntary Departure: Limiting the Attorney General’s Discretion in Immigration Matters,” *Michigan Law Review*, vol. 85, no. 1 (1986), pp. 152-190; Bill Frelick and Barbara Kohnen, “Filling the Gap: Temporary Protected Status,” *Journal of Refugee Studies*, vol. 8, no. 4 (1995), pp. 339-63; and Claire Bergeron, “Temporary Protected Status After 25 Years: Addressing the Challenge of Long-Term ‘Temporary’ Residents and Strengthening a Centerpiece of U.S. Humanitarian Protection,” *Journal on Migration and Human Security*, vol. 2, no. 1 (2014), pp. 22-43.

²¹ U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, (continued...)

meet its international commitments to “provide a ‘safe haven’ while at the same time not granting permanent residency to large groups of aliens outside of regular immigration channels or forcing foreign nationals to renounce their homeland in order to avoid what may be a relatively short-lived crisis.”²² Some of those granted EVD were eventually permitted to adjust to LPR status.²³

In the 1980s, hundreds of thousands of Central Americans arrived in the United States during a time of civil conflicts in El Salvador, Guatemala, and Nicaragua.²⁴ Many of these new arrivals applied for asylum. Approval rates were relatively low, especially for Salvadorans. Supporters of providing protection to Salvadorans in the United States argued that Salvadorans were being unfairly denied asylum.²⁵ Religious groups, some Members of Congress, and others called on the Reagan Administration (and subsequently the George H. W. Bush Administration) to grant blanket relief to Salvadorans, arguing that forcing them to return to El Salvador would be inhumane given the level of violence there.²⁶

In the absence of an EVD grant for Central Americans, some Members of Congress introduced bills to create a statutory safe-haven mechanism that would provide nationality-based relief from removal.²⁷ Some of these bills included country-specific safe-haven provisions (e.g., El Salvador,

Temporary Safe Haven Act of 1987, 100th Cong., 1st sess., October 28, 1987, pp. 22-23; and U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Immigration and Refugee Affairs, *Temporary Safe Haven for Salvadorans*, 100th Cong., 1st sess., June 17, 1987, S. Hrg. 100-352.

²² Arnold Leibowitz, “Section 5.05, Extended Voluntary Departure,” *Immigration Law and Refugee Policy*, 1983, p. 156. For discussion of debates around U.S. obligations to provide safe haven under international law, see Susan Martin et al., “Temporary Protection: Toward a New Regional and Domestic Framework,” *Georgetown Immigration Law Journal*, vol. 12 (1998), pp. 543-587; Oswald, “Extended Voluntary Departure”; Sarah Anchors, “Temporary Protected Status: Making the Designation Process More Credible, Fair, and Transparent,” *Arizona State Law Journal*, vol. 39, no. 2 (Summer 2007), pp. 565-600; and Charles Gordon et al., *Immigration Law and Procedure* §33.07[3], revised annually.

²³ For members of some groups, this happened via acts of Congress. Other individuals were able to adjust to permanent status through existing immigration categories.

²⁴ Robert Lindsey, “A Flood of Refugees from El Salvador Tries to Get Legal Status,” *New York Times*, July 4, 1983; Editorial Writers Desk, “New Voice for Refugees,” *Los Angeles Times*, April 28, 1987; Lee May, “Officials Debate Ways to Reduce Influx of Aliens,” *Los Angeles Times*, February 5, 1989; and U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Immigration and Refugee Affairs, *Temporary Safe Haven for Salvadorans*, hearing, 100th Cong., 1st sess., June 17, 1987, S. Hrg. 100-352, p. 237.

²⁵ In the 1980s, asylum approval rates were higher for Nicaraguans than for Salvadorans. Some observers asserted that the U.S. Administration was unfairly denying Salvadoran asylum applications because it viewed approving them as an admission that the U.S.-supported Salvadoran government violated human rights. They also asserted that the U.S. Administration was more likely to approve asylum applications from Nicaraguans due to U.S. opposition to the Sandinista government. U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Immigration and Refugee Policy, *Immigration Reform and Control Act*, hearing, 98th Cong., 1st sess., February 24, 1983, S. Hrg. 98-198, p. 465; U.S. Congress, House Committee on Rules, *Temporary Suspension of Deportation on El Salvador Refugees*, report to accompany H.R. 4447, 98th Cong., 2nd sess., H. Rept. 98-1142, part 1, October 4, 1984; and Claudia Dreifus, “Washington: No Refugees Need Apply,” *The Atlantic Monthly*, February 1987. For statistics on asylum approval rates for Salvadorans and other Central Americans, see Peter C. Diamond, “Temporary Protected Status under the Immigration Act of 1990,” *Willamette Law Review*, vol. 28, no. 4 (Fall 1992).

²⁶ Rep. Bruce Morrison, “Central American Studies and Temporary Relief Act of 1989,” remarks in the House, *Congressional Record*, vol. 135 (October 25, 1989), p. 25833; U.S. Congress, Senate Committee on the Judiciary, Subcommittee on Immigration and Refugee Affairs, *Testimony of American Civil Liberties Union Representatives*, hearing on Temporary Safe Haven for Salvadorans, 100th Cong., 1st sess., June 18, 1987, S. Hrg. 100-352, pp. 116-131; U.S. Congress, House Committee on Rules, *Temporary Suspension of Deportation on El Salvador Refugees*, report to accompany H.R. 4447, 98th Cong., 2nd sess., H. Rept. 98-1142, part 1, October 4, 1984; and Myra MacPherson, “Caught in the Storm of Sanctuary,” *Washington Post*, March 12, 1985.

²⁷ See, for example, the Temporary Safe Haven Act of 1987 (H.R. 2922) and the Temporary Safe Haven Act of 1988 (H.R. 4379) in the 100th Congress and the Chinese and Central American Temporary Protected Status Act of 1989 (H.R. 45), the Chinese Temporary Protected Status Act of 1989 (H.R. 2929), and S. 458 in the 101st Congress.

China, Lebanon, Liberia, and Kuwait). Proponents of these bills pointed to a need to fill what they perceived as a protection gap for those in the United States who had not or would not qualify for asylum but whose home countries had erupted in generalized violence, upheaval, or environmental disaster.²⁸ Voicing his support for the argument that there was a protection gap, Representative Mazzoli pointed out that EVD had been used more than a dozen times going back to the Eisenhower Administration and that each subsequent Administration had used it, regardless of political party. However, he asserted, the debates over EVD for Salvadorans and Nicaraguans had revealed that EVD decisions were made “on an ad hoc basis without proper guidelines or standards.”²⁹ Temporary safe-haven legislation, supporters contended, would address the shortcomings of EVD by creating an orderly, statutory process. (For details, see **Appendix**.) Opponents argued that such a measure would undercut the Refugee Act of 1980 by applying a blanket approach rather than a case-by-case approach to protection needs. They also argued that it would be harmful to U.S. immigration policy by creating pressure for permanent status, encouraging illegal immigration, and favoring nationals of specific countries over others.³⁰ Provisions creating the TPS program and designating El Salvador for an 18-month grant of TPS were included in the Immigration Act of 1990 (P.L. 101-649), which overhauled the legal immigration system.

TPS Designations Since 1990

Over the history of the program, 28 countries have been designated for TPS (some on more than one occasion) (see **Figure 1**). Most of these countries were designated on more than one basis. Five of the countries’ designations included the basis of environmental disaster, 16 countries’ designations included armed conflict, and 24 countries’ designation included extraordinary and temporary conditions.

More than three quarters of TPS recipients (89%) have been nationals of countries in Latin America or the Caribbean, with Venezuela, El Salvador, and Haiti together accounting for 83% of all TPS recipients over the history of the program. Nationals of European countries have accounted for approximately 6% of TPS recipients, nationals of Asian countries (including those in the Middle East) have accounted for about 3%, and nationals of African countries have accounted for about 2%.

Of the 28 countries that have received TPS designations, 12 are in Africa, seven are in Asia and the Middle East, six are in Latin America and the Caribbean, and three are in Europe (see **Figure 2**).

Some countries’ TPS designations have lasted as little as one year, while others have been extended for decades (see **Figure 1**). The average length of TPS designations since 1990 is approximately nine years.³¹ The only time that Congress (rather than the Attorney General or

²⁸ U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, hearing, 100th Cong., 1st sess., October 28, 1987.

²⁹ U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, p. 2.

³⁰ Rep. McCollum, “Central American Studies and Temporary Relief Act of 1989,” remarks in the House, *Congressional Record*, vol. 135 (October 25, 1989), p. 25834; U.S. Congress, Senate Committee on the Judiciary, *Providing for a GAO Study on Conditions of Displaced Salvadorans and Nicaraguans, and for Other Purposes*, Minority Views of Senator Alan K. Simpson, 101st Cong., 2nd sess., February 1, 1990, S. Rept. 101-241, pp. 14-22; and “Congress Approves Major Immigration Reform,” *Interpreter Releases*, vol. 67, no. 41 (October 29, 1990).

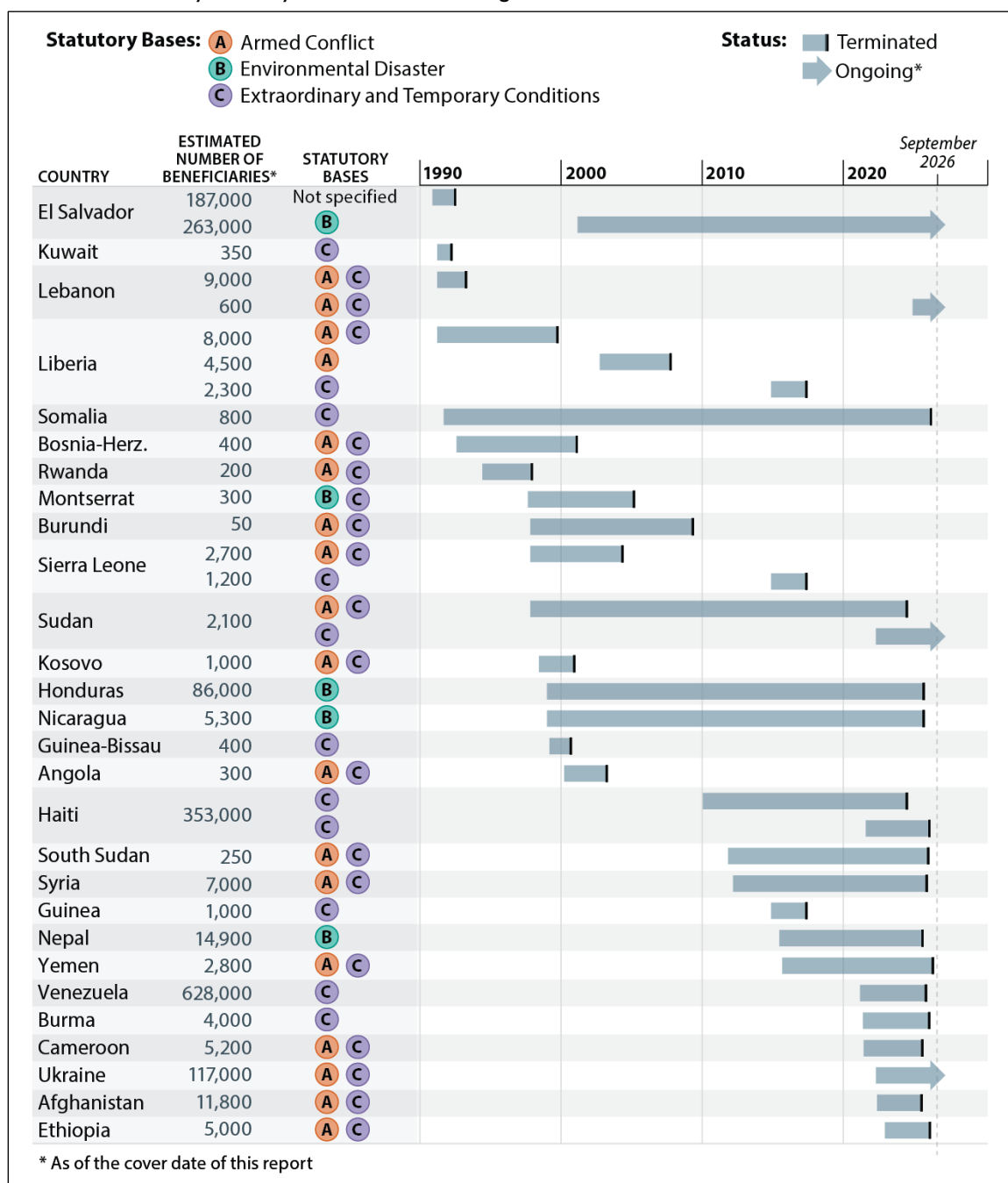
³¹ CRS’s analysis is based on past and ongoing designations. For ongoing designations, the current expiration date was used as the last day of the designation.

Secretary of DHS) designated a country was in 1990, when it included an 18-month designation for El Salvador as part of the Immigration Act of 1990 that created TPS.³²

³² Although the TPS statute gives the Secretary of DHS the authority to designate countries for TPS, there is no prohibition on Congress passing a bill to designate (or terminate a designation of) a country for TPS.

Figure I. TPS Designations, 1990-2026

By Country, Basis, Period of Designation, and Estimated Beneficiaries

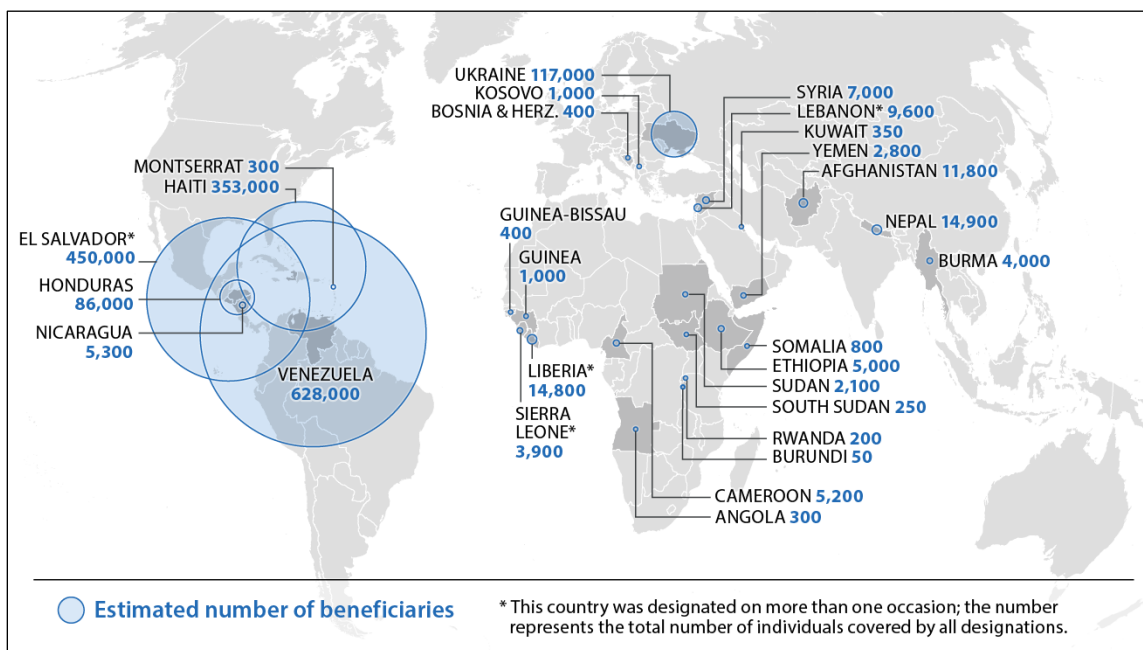


Source: Country designations, time periods, and statutory bases: *Federal Register* notices; estimated beneficiaries: see notes below.

Notes: The estimated number of beneficiaries is the highest number of approved applicants (rounded) found among the following sources: *Federal Register* notices, Immigration and Naturalization Service data, U.S. Citizenship and Immigration Service data provided to CRS (multiple dates), and U.S. Government Accountability Office, *Temporary Protected Status: Steps Taken to Inform and Communicate Secretary of Homeland Security's Decisions*, 20-134, April 2020. These numbers may be based on different methods of counting TPS-approved individuals.

Figure 2. Estimated TPS Beneficiaries by Country

Estimated Number of Beneficiaries, 1990-2026



Source: Federal Register notices, Immigration and Naturalization Service data, U.S. Citizenship and Immigration Service data provided to CRS (multiple dates), and U.S. Government Accountability Office, *Temporary Protected Status: Steps Taken to Inform and Communicate Secretary of Homeland Security's Decisions*, 20-134, April 2020.

Notes: The estimated number of beneficiaries is the highest number (rounded) of approved TPS applicants among the listed sources. These numbers may be based on different methods of counting TPS-approved individuals.

Selected Policy Questions

When Congress created TPS, it left some questions and concerns unresolved. Since its creation in 1990, the program and its implementation have raised questions that fuel debates about whether and how to reform it. Some of these questions are addressed below.

Is TPS serving its intended purpose?

Congress passed TPS to fill a gap in U.S. immigration law for individuals in need of humanitarian protection. By creating TPS, Congress also sought to provide structure and transparency to the process that was missing in the granting of EVD (see **Appendix**). TPS has provided protection from removal to approximately 1.7 million people since 1990. Some of these individuals have gone on to obtain other temporary or permanent statuses in the United States. Others have returned to their home countries or third countries.³³ It is impossible to know what would have happened to these people if TPS had not existed. It is possible that some individuals would have returned to unsafe conditions in their home countries (either on their own or because they were removed by the U.S. government) or remained in the United States without authorization. It is

³³ See, for example, Jennifer Simmelink, "Temporary Citizens: US Immigration Law and Liberian Refugees," *Journal of Immigrant and Refugee Studies*, vol. 9, no. 4 (2011), pp. 327-344; and Craig Damian Smith, "Policy Change, Threat Perception, and Mobility Catalysts: The Trump Administration as Driver of Asylum Migration to Canada," *International Migration Review*, vol. 57, no. 4 (2023), pp. 1678-1709.

also possible that some individuals would have received blanket protection via EVD, TPS's precursor, or some other discretionary mechanism.³⁴

What does *temporary* mean in the context of TPS?

At the forefront of debates over TPS is the question of how to interpret *temporary*. As stated above, the average length of TPS designations to date is about nine years, and some have lasted over two decades. For some observers, this has raised questions about TPS's credibility as a temporary program and led to criticism that the program is being misused.³⁵

When Congress created TPS, it limited initial designations and extensions to a maximum of 18 months at a time but did not impose a limit on the number of times a designation could be extended. In addition, while Congress specified that conditions preventing nationals return to their home countries had to be of a "temporary" nature to qualify a country for designation on the bases of natural disaster or extraordinary conditions, it did not include the "temporary" qualifier for designations based on armed conflict. Moreover, the statute provides for a "default" extension at the end of a designation if the Secretary has not determined that a designated country no longer meets the conditions for designation.³⁶ Some observers point to these facts as evidence that Congress recognized that some crises would be protracted and that the executive branch should have discretion to continue extending TPS in such circumstances.³⁷ They argue that the "temporary" in TPS refers not to the length of the designation necessarily but to the fact that the benefit does not confer permanent residence and requires beneficiaries to renew their status with each extension.³⁸ They assert that TPS has helped the United States fulfill its international commitment to humanitarian protection without giving beneficiaries the same type of pathway to permanent residence that accompanies asylum or refugee status.³⁹

Others point out that by calling TPS "temporary," requiring beneficiaries to register so that their names and addresses are known to the government, and imposing a limitation on the consideration of legislation to provide permanent status to TPS holders (see next section, "Should TPS beneficiaries have a pathway to permanent status?"), Congress made clear its intentions that TPS designations should be limited in length. Some observers assert that the executive branch's application of TPS—particularly in recent years—does not align with congressional intent,

³⁴ Since 1990, another form of temporary, blanket relief from removal has been used called deferred enforced departure (DED). Unlike TPS, a DED designation emanates from the President's constitutional powers to conduct foreign relations and has no statutory basis. DED is very similar in function to EVD. For information on the historical use of DED, see CRS Report RS20844, *Temporary Protected Status and Deferred Enforced Departure*.

³⁵ Muzaffar Chishti and Ariel G. Ruiz Soto, "Attacked as 'De Facto Amnesty,' U.S. Temporary Protected Status Is Abruptly Eroded," Migration Policy Institute, May 28, 2026.

³⁶ INA, §244(b)(3)(C) (8 U.S.C. §1254a(b)(3)(C)).

³⁷ See, for example, Mark L. Schneider and Aaron Schneider, "El Salvador: TPS Has Three Words, Only One Is 'Temporary,'" Center for Strategic and International Studies, December 26, 2017.

³⁸ See, for example, Royce B. Murray, "TPS Is the Glue Holding Together a Broken Immigration System," *Securing America's Promise*, Substack, July 27, 2026, <https://securingamericaspromise.substack.com/p/tps-is-the-glue-holding-together>.

³⁹ See, for example, Leibowitz, "Section 5.05"; Martin et al., "Temporary Protection"; and Anchors, "Temporary Protected Status."

arguing that Congress intended that designations be short-lived.⁴⁰ Some have proposed requiring an act of Congress for any initial TPS designation to be extended.⁴¹

If Congress chose to explicitly define what is meant by *temporary*, other questions would likely emerge. For example, if there should be a time limit on a country's TPS designation, what should it be? What would happen at the end of that time? Would beneficiaries be required to return to potentially unsafe conditions in their home countries? Would long-term TPS beneficiaries be eligible to apply for permanent status?

Should TPS beneficiaries have a pathway to permanent status?

As noted above, TPS does not provide a recipient with a designated pathway to LPR status. However, TPS recipients may acquire LPR status if they meet the requirements for doing so. Over the years, some TPS recipients have adjusted to LPR status through existing pathways (e.g., asylum, family, or employment) in the Immigration and Nationality Act (INA) for which they were eligible. Most, however, are not eligible for such pathways, and various proposals have been put forward over the years to provide a special pathway for those who have lived in the United States for a specified number of years under TPS.⁴² Critics maintain that such proposals, if enacted, would encourage more immigration (particularly illegal immigration) by setting an expectation of eventual permanent status (see next section, “Do TPS designations encourage illegal immigration?”).

As noted above, some observers emphasize the *T* (temporary) in TPS and maintain that it was never meant to lead to permanent status.⁴³ Indeed, as a last-minute compromise to keep the TPS provisions in the Immigration Act of 1990, some Members of Congress insisted that a restriction on legislation to provide for adjustment to permanent status be added to the TPS provisions.⁴⁴ Section 244(h) of the INA (8 U.S.C. §1254a(h)) states that the consideration of any bill, resolution, or amendment that provides for the adjustment to lawful temporary or LPR status of any TPS recipient “shall not be in order in the Senate” unless a supermajority (i.e., three-fifths of all Senators) votes to waive this rule. This addition may have been prompted, in part, by the fact that Congress had historically provided a pathway to permanent status for some of the groups granted nationality-based relief under EVD.⁴⁵

Others acknowledge that TPS was designed for short-term protection but argue that TPS beneficiaries who have resided in the United States for long periods of time due to prolonged crises in their homelands have become integrated into U.S. society and should be allowed to

⁴⁰ See, for example, U.S. Congress, House Judiciary Committee, Subcommittee on Immigration Integrity, Security, and Enforcement, *The Impacts of Temporary Protected Status*, hearing, 119th Cong., 1st sess., December 17, 2025, H.Hrg. 119-47; and Federation for American Immigration Reform, “Temporary Protected Status Exploited as Amnesty,” January 10, 2025.

⁴¹ See, for example, testimony of George Fishman, Senior Legal Fellow, Center for Immigration Studies, House Committee on the Judiciary, Subcommittee on Immigration Integrity, Security, and Enforcement, *The Impacts of Temporary Protected Status*, hearing, 119th Cong., 1st sess., December 17, 2025, H.Hrg. 119-47; and Andrew R. Arthur, “‘Temporary’ Protected Status: The Biggest Misnomer in Immigration,” Center for Immigration Studies, October 31, 2017.

⁴² See, for example, the American Dream and Promise Act from the 116th, 117th, 118th, and 119th Congresses (H.R. 1589 in the 119th Congress).

⁴³ See, for example, Dan Cadman, “Congress Must End, or Radically Amend, Temporary Protected Status,” Center for Immigration Studies, May 12, 2025.

⁴⁴ “Congress Approves Major Immigration Reform,” *Interpreter Releases*, vol. 67, no. 41 (October 29, 1990).

⁴⁵ In 1987, for example, as Congress was debating safe haven legislation, it passed legislation to allow EVD beneficiaries from Afghanistan, Ethiopia, Poland, and Uganda to obtain permanent status (P.L. 100-204, §902).

become LPRs rather than continuing to “live in limbo” while waiting for safe conditions in their homelands.⁴⁶ Some point to the economic contributions of those with TPS, the fact that many are parents of U.S. citizen children, and the repeated vetting and approval for TPS by the government as support for providing a pathway to LPR status.⁴⁷

Over the years since TPS’s enactment, Congress has passed legislation providing special pathways to LPR status for certain groups of foreign nationals who were granted nationality-based blanket protection under EVD, TPS, or deferred enforced departure.⁴⁸ Such legislation has been enacted on an ad hoc basis. Some observers have proposed statutory reforms that would make a pathway to LPR status available after a person has held TPS for a certain number of years.⁴⁹

Do TPS designations encourage illegal immigration?

Another chief concern about TPS, both prior to its enactment and today, is whether it acts as a “magnet” to encourage individuals from countries in crisis to get to the United States (by whatever means they can) in hopes that they will be able to benefit from a TPS grant. When Congress created TPS, it made clear that TPS was not an admissions category and that it was

⁴⁶ Bergeron, “Temporary Protected Status After 25 Years.” Some research suggests that, while holding TPS allows individuals to improve their labor market prospects compared to living in the United States without authorization, the ongoing uncertainty thwarts socioeconomic mobility in the long term. See Cecilia Menjivar, “Educational Hopes, Documented Dreams: Guatemalan and Salvadoran Immigrants’ Legality and Educational Prospects,” *Annals of the American Academy of Political and Social Science*, vol. 620, no. 1 (2008), pp. 177-193.

⁴⁷ Center for Migration Studies, “The Center for Migration Studies Raises Concerns over Supreme Court Decision Ending TPS for Haitians and Syrians,” press release, July 2, 2026. For estimates of the economic contributions of TPS recipients, see National Foundation for American Policy, “An Analysis of the Fiscal and Economic Gains from Venezuelans on TPS in the United States,” January 2026, <https://nfap.com/studies/an-analysis-of-the-fiscal-and-economic-gains-from-venezuelans-on-tps-in-the-united-states/>; FWD.us, “Temporary Protected Status Protects Families While Also Boosting the U.S. Economy,” April 21, 2026, <https://www.fwd.us/news/temporary-protected-status-report/>; Nicole Svajlenka and Tom Jawetz, “A Demographic Profile of TPS Holders Providing Essential Services During the Coronavirus Crisis,” Center for American Progress, April 14, 2020; American Immigration Council, “Workers with Temporary Protected Status in Key Industries and States,” January 9, 2019, <https://www.americanimmigrationcouncil.org/fact-sheet/workers-temporary-protected-status-key-industries-and-states/>. For an analysis of the effects of holding TPS on the income and asset ownership of Salvadoran TPS holders, see Jorgen M. Harris and Rhiannon Jerch, “The Long-Run Effects of Temporary Protection from Deportation,” *Journal of Policy Analysis and Management*, vol. 4, no. 1 (January 2025), pp. 151-182.

⁴⁸ For example, after the Tiananmen Square protests in 1989, President George H. W. Bush granted deferred enforced departure (DED) to certain Chinese students in the United States. In 1992 Congress passed the Chinese Student Protection Act (P.L. 102-404), allowing them to apply for LPR status. In 1997, Congress enacted the Nicaraguan Adjustment and Central American Relief Act (Title II of P.L. 105-100), which allowed certain Central Americans and others (including some Salvadorans who had been covered by the 1990 TPS designation) to apply for LPR status. In 1997, President Clinton granted DED for one year to Haitian nationals in the United States. The following year, Congress enacted the Haitian Refugee Immigration Fairness Act (Title IX of P.L. 105-277), allowing certain Haitian nationals who were in the United States before December 31, 1995, to apply for LPR status (this was prior to Haiti’s TPS designation in 2010). In 2020, Congress enacted the Liberian Refugee Immigration Fairness (P.L. 116-260, §7611), which allowed Liberians who had been covered by prior grants of DED and TPS to apply for LPR status.

⁴⁹ Testimony of Doris Meissner, U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, hearing, 100th Cong., 1st sess., October 28, 1987; Frelick and Kohlen, “Filling the Gap”; Martin et al., “Temporary Protection”; Bergeron, “Temporary Protected Status After 25 Years”; Donald Kerwin, “Creating a More Responsive and Seamless Refugee Protection System: The Scope, Promise and Limitations of U.S. Temporary Protection Programs,” *Journal on Migration and Human Security*, vol. 2, no. 1 (2014), pp. 44-72; Andrew I. Schoenholtz, “The Promise and Challenge of Humanitarian Protection in the United States: Making Temporary Protected Status Work as a Safe Haven,” *Northwestern Journal of Law and Social Policy*, vol. 15 (Fall 2019). Bill Frelick, “What’s Wrong with Temporary Protected Status and How to Fix It: Exploring a Complementary Protection Regime,” *Journal on Migration and Human Security* (2020).

designed to protect individuals already present in the United States.⁵⁰ To that end, it directed the executive branch to specify the date by which aliens must have been present in order to be eligible. Making aliens who entered the United States after such date ineligible for TPS, they reasoned, would mitigate any “magnet” effect.

A drawback of the cut-off date, according to some, is that it fails to protect ongoing arrivals fleeing a humanitarian emergency.⁵¹ To address this, some Administrations have newly designated, or “re-designated,” countries for TPS at the end of a designation period. Such actions move the cut-off date to a later date, thus allowing more recent arrivals—as well as individuals who were present for the prior designation but missed the registration deadline—to apply. The downside to this approach, some argue, is that it sends a message to prospective migrants that qualifying for TPS is a future possibility if they can get to the United States. In this sense, some argue, TPS can act as a magnet for increased immigration.⁵²

On the contrary, some studies have shown that TPS and other mechanisms that provide temporary permission to live and work in the United States may *decrease* subsequent demand for migration from designated countries. A 2022 report in *International Studies Quarterly* found that having TPS increased wages for beneficiaries, which was associated with the sending of more remittances to TPS holders’ countries of origin, which, in turn, led to a decrease in demand for migration from the countries receiving remittances.⁵³

Other studies have attempted to answer the “magnet” question by analyzing U.S. immigration data for nationals of countries designated for TPS. In a 2019 article published in the *Journal of Law and Social Policy*, the author analyzed migration data from countries re-designated for TPS from 1991 through 2018 and concluded that these actions had not had a magnet effect.⁵⁴ Similarly, researchers with the Center for American Progress, a think tank and advocacy organization, analyzed immigration apprehensions data (a proxy for unlawful immigration) for Nicaraguans, Hondurans, and Salvadorans following their TPS designations (in 1998, 1998, and 2001, respectively) and found no evidence of a magnet effect.⁵⁵

In contrast, in a more recent analysis from the Federal Reserve Bank of Dallas, researchers examined the effects of humanitarian parole programs created by the Biden Administration for four countries (Cuba, Haiti, Nicaragua, and Venezuela), two of which (Haiti and Venezuela) were also designated for TPS.⁵⁶ They found that the parole programs appeared to reduce the number of unauthorized crossings by nationals of Cuba and Nicaragua but not by nationals of Haiti and Venezuela. The authors surmised that the availability of TPS for nationals of Haiti and Venezuela

⁵⁰ INA, §244(c)(5).

⁵¹ See, for example, Frelick, “What’s Wrong with Temporary Protected Status.”

⁵² See, for example, Cadman, “Congress Must End, or Radically Amend, Temporary Protected Status”; Andrew R. Arthur, “DHS Extends and ‘Redesignates’ TPS for 700,000+ Venezuelans,” Center for Immigration Studies, September 21, 2023; and Federation for American Immigration Reform, “Temporary Protected Status Exploited as Amnesty,” January 10, 2025.

⁵³ Benjamin Helms and David Leblang, “Labor Market Policy as Immigration Control: The Case of Temporary Protected Status,” *International Studies Quarterly*, vol. 66, no. 3 (September 2022).

⁵⁴ Schoenholtz, “The Promise and Challenge of Humanitarian Protection in the United States.”

⁵⁵ Tom K. Wong et al., “There Is No Evidence That TPS Designations Increase Irregular Migration to the United States,” Center for American Progress, February 17, 2021.

⁵⁶ These parole processes allowed nationals of these four countries to enter the United States for temporary stays if they had U.S. financial supporters apply on their behalf and met other criteria. Some Haitians and Venezuelans who entered under these parole processes were subsequently able to apply for TPS. For more information on parole, see CRS Report R46570, *Immigration Parole*.

(and not for Cuba and Nicaragua) may have increased their motivation to enter the United States without authorization.⁵⁷

A 2024 study from the International Network for Economic Research analyzed the effect of “regularization” policies implemented from 1944 to 2023 (including, but not limited to, TPS) in Organisation for Economic Co-operation and Development (OECD) countries, which include the United States, on immigration flows.⁵⁸ Regularization programs, as defined by this study, are time-limited procedures that provide lawful status to specific categories of foreign nationals who would otherwise be subject to removal. The authors found mixed results: Such programs appeared to be a “pull factor” for lower-income OECD countries but not for higher-income OECD countries (such as the United States). The authors suggest that this difference could be due to higher-income countries’ more robust immigration enforcement capabilities.

This “magnet” issue has taken on greater salience in recent years with the expansion of TPS and the ubiquity of mobile phones and social media, by which information and misinformation spreads rapidly among current and prospective migrants.⁵⁹ Even when a TPS arrival cutoff date is not moved forward, word may spread abroad that permission to stay and work in the United States is a possibility. In addition, friends and family of TPS recipients may be enticed to join their families in the United States, even if they know they will not be eligible for TPS.

To reduce the potential magnet effect of TPS, some have proposed limiting eligibility to individuals who were legally admitted to the United States (or who maintain a lawful status at the time they apply for TPS).⁶⁰ Opponents of such approaches maintain that this would undermine the humanitarian purpose of TPS and that the United States should not remove people to countries where their lives would be endangered regardless of their immigration status.

Has the executive branch designated the appropriate countries for TPS?

In creating TPS, Congress sought to bring order and guidelines to nationality-based immigration relief. At the same time, it left the decision to designate countries to the executive branch (first, the Attorney General, now the Secretary of DHS). While the TPS statute provides bases (i.e., country conditions) upon which the executive *may* designate a country for TPS, it does not *require* designation of countries that are experiencing those conditions.

Some observers argue that certain countries or parts of the world have been wrongly left out of the program.⁶¹ Over the years, there have been efforts—by advocacy organizations, foreign countries, and Members of Congress—to have additional countries designated for TPS. Congress

⁵⁷ Pia Orrenius and Madeline Zavodny, “Can Creating Legal Pathways Reduce Unauthorized Immigration? Evidence from the CHNV Parole Program,” Federal Reserve Bank of Dallas, May 2026.

⁵⁸ Paul Elguezabal and Inmaculada Martinez-Zarzoso, “Are Immigration Regularization Programs a Pull Factor? Evidence for OECD Countries,” International Network for Economic Research, 2024.

⁵⁹ See, for example, Julia Ainsley and Didi Martinez, “Human Smugglers Use Facebook to Connect with Migrants and Spread False Hope of Reaching U.S.,” *NBC News*, April 5, 2021; Priscilla Alvarez, “Human Smugglers Peddle Misinformation to US-Bound Migrants on Facebook, Watchdog Says,” *CNN*, July 27, 2022; and Rachelle Krygier and Blaire Toedte, “Analysis: Fake News, Disinformation Mislead Many ‘American Dream’ Migrants,” *BBC Monitoring*, October 11, 2022.

⁶⁰ See, for example, Federation for American Immigration Reform, “Temporary Protected Status Exploited as Amnesty,” January 10, 2025. See also H.R. 696, H.R. 4201, and S. 225 in the 119th Congress.

⁶¹ See, for example, Anchors, “Temporary Protected Status”; Rebecca Beitsch, “Critics Decry Double Standard on Migrants amid Ukraine Crisis,” *The Hill*, March 31, 2022; and Eileen Sullivan and Miriam Jordan, “Biden Offers Protected Status to Afghans Already in the United States,” *New York Times*, March 16, 2022.

has introduced and, at times, acted on legislation to designate additional countries or to extend existing designations. To date, the only time that Congress has passed legislation to designate a country for TPS was in 1990 (as Section 303 of P.L. 101-649, the law establishing TPS) when it designated El Salvador for 18 months. In the 119th Congress, after the Trump Administration terminated Haiti's TPS designation, the House passed a bill (H.R. 1689) to designate Haiti for TPS until April 2029.⁶²

Other observers maintain that countries have been designated for TPS that should not have been.⁶³ During the Biden Administration, for example, seven new countries were designated for TPS, bringing the total to 17, a record high. Some observers argue that conditions in some of these countries did not rise to the level of danger that TPS was intended to address.⁶⁴ They also maintain that there are dozens of other countries around the world with similar circumstances and that the United States should not designate all of them for TPS.

While the statutory bases are limited to humanitarian concerns, discussions in Congress leading up to the creation of TPS acknowledged that the executive branch could (or, in some cases, should) take foreign and domestic policy concerns into account when making decisions about TPS designations.⁶⁵ There is disagreement, however, about the extent to which such factors should be taken into account. Some observers contend that TPS is "too tied to domestic politics and foreign policy concerns" and have proposed the creation of an independent commission that would use specific, measurable criteria to make designation decisions. If a country met certain criteria, a TPS designation would be required.⁶⁶ Others have proposed that DHS hold quarterly public hearings at which stakeholders could submit information on, and testify to, country conditions to inform the Secretary's decisions.⁶⁷

What reforms to the U.S. humanitarian protection system have been proposed to address perceived shortcomings of TPS?

Over the years since TPS's creation, some immigration scholars and attorneys have proposed broad reforms to the U.S. humanitarian protection system, including TPS, to address the issues described above.⁶⁸ They assert that flaws in the TPS program necessitate changes that go beyond amending the TPS program to include mechanisms addressing a broader range of humanitarian protection needs. Such proposals typically include both restriction and expansion of current TPS benefits, including some or all of the following elements:

⁶² As of the date of this report, H.R. 1689 is listed on the Senate's Calendar of Business and is awaiting floor action. A unanimous consent request was made on July 22, 2026, to take up and pass the bill, but the request was objected to.

⁶³ See, for example, Todd Bensman, "Temporary Protected Status Is a Fraud," *The American Mind*, December 18, 2024.

⁶⁴ See, for example, Robert Law, "Temporary Protected Status: Understanding How the Biden Administration is Laundering Its Failed Border Policies," *America First Policy Institute*, October 12, 2023; and Arthur, "DHS Extends and 'Redesignates' TPS for 700,000+ Venezuelans."

⁶⁵ See, for example, Testimony of Doris Meissner, U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, hearing, 100th Cong., 1st sess., October 28, 1987.

⁶⁶ Anchors, "Temporary Protected Status."

⁶⁷ Kerwin, "Creating a More Responsive and Seamless Refugee Protection System."

⁶⁸ See, for example, Martin et al., "Temporary Protection"; Bergeron, "Temporary Protected Status After 25 Years"; Elizabeth Keyes, "Unconventional Refugees," *American University Law Review*, vol. 67, no. 1, Article 2 (2017); Frelick, "What's Wrong with Temporary Protected Status and How to Fix It"; and Schoenholtz, "The Promise and Challenge of Humanitarian Protection in the United States."

- A limit on the overall length of TPS designations.
- Support for the repatriation of TPS beneficiaries through voluntary return or, if needed, removals by immigration enforcement after a designation expires.
- Prioritizing reconstruction and development of TPS-designated countries so that their nationals can return in safety.
- U.S. involvement in regional migration and development agreements to encourage responsibility sharing across the Western Hemisphere. In some situations, migrants could be resettled at regional migration centers outside the United States.
- A mechanism to provide for the protection of ongoing arrivals fleeing crises (rather than using a somewhat arbitrary date cutoff for arrivals).
- “Complementary” or “subsidiary” protection provided on an individual basis rather than blanket, nationality-based grants as in TPS. Individuals who do not meet the refugee standard would be automatically screened for protection needs related to serious risk of harm to life or person, but others from those countries who are not in need of protection would not be eligible simply by virtue of their nationality.
- A mechanism to provide a pathway to LPR status when crises are protracted and safe return seems unlikely.

Conclusion

When Congress created TPS, it left some questions and concerns unsettled. These unresolved issues have led to criticisms of the program, which have gained intensity in recent years as the number of people and countries covered by TPS, as well as the length of designations, have increased substantially. The second Trump Administration has terminated most TPS designations, and if this trend continues, for the first time since TPS was created, there may soon be no one covered by TPS.

To date, congressional action related to TPS has included letters and bills in support of specific countries being designated for TPS, as well as bills to provide a one-time pathway to LPR status for long-term TPS holders. Other bills have been introduced to limit TPS, such as by requiring an act of Congress to designate a country (or to extend its designation) or restricting individuals’ eligibility for TPS.⁶⁹ The 119th Congress passed legislation that increased fees for TPS applicants and limited employment authorization renewal periods.⁷⁰ If Congress chooses to take further action on TPS, it might consider the various policy questions and proposals described in this report that have surrounded TPS since its inception.

⁶⁹ See, for example, H.R. 175, H.R. 696, H.R. 1050, H.R. 4201, H.R. 3724, and S. 225 in the 119th Congress and S. 207 in the 118th Congress.

⁷⁰ P.L. 119-21.

Appendix. Congressional Record on How TPS Was Meant to Address EVD Deficiencies

One reason Congress created TPS was to bring structure and accountability to the government's practice of providing blanket, nationality-based protection via EVD. House documents describe what congressional supporters of TPS viewed as deficiencies in the practice of EVD and how TPS was meant to address them.⁷¹ These include the following:

- *Uncertain legislative basis.*⁷² TPS provides a statutory remedy codified by Congress in the INA.
- *Lack of guidelines on the criteria for designating countries.* The TPS statute provides for three bases upon which countries may be designated: armed conflict, environmental disaster, and "extraordinary and temporary conditions." It also directs the Attorney General (now DHS Secretary) to consult with "appropriate agencies of the Government" prior to designating a country and when deciding whether to extend or terminate a designation.
- *Lack of publicity for EVD grants and lack of explanation of how and why countries were chosen.* The TPS statute requires that the executive branch make information available about TPS designations to nationals of such countries. It also requires the publication of country designations (and subsequent extensions or terminations) in the *Federal Register*. Such a notice must include an explanation of why the country is being designated and an estimate of the number of individuals potentially eligible.
- *Lack of guidelines on the process for providing protection to eligible individuals.* The TPS statute provides eligibility criteria for aliens wishing to obtain TPS and sets up registration and documentation procedures. *Federal Register* designation notices provide specific instructions. The statute also requires the executive branch to periodically review country conditions and decide whether to terminate or extend a designation.
- *Lack of clarity on the rights and responsibilities of beneficiaries.* The TPS statute lays out the benefits of TPS, chiefly protection from removal and work authorization. In addition, it provides that TPS beneficiaries may not be detained on the basis of their immigration status, may travel abroad with prior consent of the government, are considered as maintaining lawful status as nonimmigrants, and will be provided with documentation of their status and work authorization. In turn, TPS beneficiaries are required to register periodically with the

⁷¹ U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1988*, 100th Cong., 2nd sess., H. Rept. 100-627, May 17, 1988; and Rep. Mazzoli, "Consideration and passage of H.R. 4379, Temporary Safe Haven Act of 1988," Remarks on the House floor, *Congressional Record*, vol. 124 (October 5, 1988), p. 28603.

⁷² Speaking on the House floor in support of a precursor bill to TPS, Rep. Mazzoli said EVD "has only the shakiest of legislative foundations." Rep. Mazzoli, "Consideration and passage of H.R. 4379, Temporary Safe Haven Act of 1988," Remarks on the House floor, *Congressional Record*, vol. 124 (October 5, 1988), p. 28603. During a 1987 hearing, the former acting commissioner of the Immigration and Naturalization Service stated that, while the term EVD does not appear in the INA, "successive administrations have concluded that EVD is a proper exercise of the Attorney General's inherent discretion not to remove certain individuals from the country." U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1987*, 100th Cong., 1st sess., October 28, 1987, p. 1. For an analysis of the legal basis and controversies over EVD, see Oswald, "Extended Voluntary Departure."

- government, maintain physical presence in the United States (with limited exceptions for approved travel), and pay associated fees. TPS may be withdrawn if these conditions are not met or if the government finds that the alien was not in fact eligible.
- *Lack of eligibility standards and screening of beneficiaries, including the eligibility of “terrorists, drug traffickers, intelligence agents, and even Nazis” for EVD.*⁷³ The TPS statute lays out eligibility standards, including being present in the United States at the time of designation, being admissible as an immigrant (with certain exceptions), not being ineligible under certain national security grounds (including participating in persecution or genocide), and not having been convicted of a felony or two or more misdemeanors.
- *Difficulty in locating aliens for deportation after EVD expired given the absence of registration.* By instituting a registration requirement, Congress created a record of beneficiaries’ names, addresses, and other biographic and biometric information that can be used to enforce their departure after TPS ends.
- *Lack of reliable estimates of aliens granted EVD.* Through the registration requirement, Congress created a way for the executive branch to know how many individuals are covered by TPS designations. The statute also requires an annual report to Congress listing the countries designated, the reasons for such designations, and the number and prior immigration status of individuals granted TPS.

Author Information

Jill H. Wilson
Analyst in Immigration Policy

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⁷³ Quotation from U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Refugees, and International Law, *Temporary Safe Haven Act of 1988*, 100th Cong., 2nd sess., H. Rept. 100-627, May 17, 1988, p. 8.