

**From:** (b)(5)  
**To:** OPLA HO Personnel; OPLA Field Personnel  
**Subject:** Broadcast Message: Recent Temporary Protected Status-Related Issues  
**Date:** Monday, August 24, 2020 3:19:05 PM  
**Attachments:** image001.jpg

---

**\*\*\*PRIVILEGED\*\*\*ATTORNEY WORK PRODUCT\*\*\*FOR OFFICIAL USE  
ONLY\*\*\*NOT FOR DISSEMINATION OUTSIDE OPLA\*\*\***

***Disseminated on behalf of Ken Padilla and Adam V. Loiacono . . .***

Under section 244 of the Immigration and Nationality Act (INA), the Secretary of Homeland Security (Secretary) may designate a foreign country, or any part of a foreign country, in order to allow its nationals who are in the United States to apply for Temporary Protected Status (TPS) due to conditions preventing their safe return to the country or rendering the country unable to adequately handle their return. *See* INA § 244(b)(1). Aliens who are granted TPS may not be removed, and they may not be detained based on their immigration status. *See id.* § 244(a)(1)(A), (d)(4); *see also* 8 C.F.R. § 244.10(f)(2)(i) (alien shall not be removed while maintaining TPS). In addition, aliens with TPS are authorized to work in the United States. *See* INA § 244(a)(1)(B); 8 C.F.R. § 244.10(f)(2)(ii). To maintain TPS, aliens must re-register annually with U.S. Citizenship and Immigration Services (USCIS) during a specified period of re-registration. *See* INA § 244(c)(3) (providing for withdrawal of TPS if alien fails to register annually); *see also* 8 C.F.R. § 244.10(f)(4)(ii) (providing for notice of the annual registration requirement).

The Secretary may also periodically review and terminate the TPS designation of a country. *See* INA § 244(b)(3). Since 2017, the Secretary has terminated the TPS designations of multiple countries. *See* 83 Fed. Reg. 26,074 (June 5, 2018) (Honduras); 83 Fed. Reg. 23,705 (May 22, 2018) (Nepal); 83 Fed. Reg. 2,648 (Jan. 18, 2018) (Haiti); 83 Fed. Reg. 2,654 (Jan. 18, 2018) (El Salvador); 82 Fed. Reg. 59,636 (December 15, 2017) (Nicaragua). As a result of legal challenges, however, these terminations have been preliminarily enjoined, *see Ramos v. Nielsen*, No. 18-01554 (N.D. Cal. Oct. 3, 2018) (order enjoining the termination of the TPS designations for Sudan, Nicaragua, Haiti, and El Salvador); *see also Saget v. Trump*, No. 18-01599 (E.D.N.Y. Apr. 11, 2019) (order enjoining the termination of the TPS designation for Haiti), or temporarily halted by stipulation, *see Bhattarai v. Nielsen*, No. 19-00731 (N.D. Cal. Mar. 12, 2019) (order adopting joint stipulation to halt the termination of the TPS designations for Nepal and Honduras pending decision on appeal in *Ramos*). To comply with the *Ramos* injunction and *Bhattarai* stipulation, the Secretary has extended the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan through at least January 4, 2021. *See* Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan, 84 Fed. Reg. 59,403 (Nov. 4, 2019). Aliens benefiting from these TPS designations will retain their TPS while the *Ramos* injunction and *Bhattarai* stipulation remain in effect, provided that an alien's TPS is not withdrawn by USCIS. *See generally* § INA § 244(c)(3) (providing for withdrawal of TPS); 8 C.F.R. § 244.14 (same). For the latest updates on the TPS litigation, you may visit USCIS's website [here](#).

In light of the significant recent litigation dealing with TPS, OPLA attorneys should keep in mind the following practice pointers:

- (b)(5)
- T

(b)(5)

This message includes internal guidance provided for internal OPLA use only and is not intended for public disclosure. Please ensure that it is treated consistent with applicable guidance. If there are any questions about this guidance or TPS generally, please do hesitate to reach out to ILPD (ILPD-E or ILPD-W), as appropriate.

Thank you,

Ken Padilla

Deputy Principal Legal Advisor for Field Legal Operations

Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

Adam V. Loiacono

Deputy Principal Legal Advisor for Enforcement and Litigation

Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

**\*\*\*PRIVILEGED\*\*\*ATTORNEY WORK PRODUCT\*\*\*FOR OFFICIAL USE  
ONLY\*\*\*NOT FOR DISSEMINATION OUTSIDE OPLA\*\*\***

Regards,

(b)(6); (b)(7)(C)

Special Assistant

Office of the Principal Legal Advisor

U.S. Immigration and Customs Enforcement

U.S. Department of Homeland Security

Desk: (b)(6); (b)(7)(C)

Mobile: (b)(6); (b)(7)(C)

Fax: (202) 732-5346

Email: (b)(6); (b)(7)(C) @ice.dhs.gov

?

~~CONFIDENTIALITY NOTICE: This document may contain confidential and sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document must be approved by the Department of Homeland Security, U.S. Immigration and Customs Enforcement.~~