



Temporary Protected Status in the Wake of Mullin v. Doe

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Abstract — This brief will analyze the recent changes in U.S. policy on Temporary Protected Status (TPS), a humanitarian immigration program. It will examine the history of this program, the end to TPS protections for many countries, and the legal challenges against this that led to the Supreme Court's involvement.

Keywords — Mullin v. Doe, TPS (Temporary Protected Status), immigration, humanitarianism, executive branch

I. EXECUTIVE SUMMARY

On June 25, 2026, the Supreme Court held that judicial review of certain TPS designation decisions is limited. In addition, the Trump Administration's choice to terminate Haiti's TPS designation was not racially motivated, but a policy view supported by race-neutral justifications.¹ The ruling allowed the administration to continue terminating TPS for numerous countries. This brief will analyze arguments for and against TPS and the actions leading to the Supreme Court's decision.

II. OVERVIEW

This section provides an overview of the origins of the TPS program, its impact, and the recent changes in its enforcement.

A. Pointed Summary

- Since its inception by Congress in 1990, TPS has allowed millions of migrants to

live and work in the United States due to unsafe conditions in their home country. Such conditions have included armed conflict, widespread violence, and environmental disaster.³

- A program under the Department of Homeland Security, TPS has historically received bipartisan support. However, the Trump Administration has ended TPS status for over a million people as part of its broader immigration enforcement agenda.⁴

B. Relevance

Both Democratic and Republican presidents have historically utilized the TPS program. However, under the first and second Trump administrations, the DHS has adopted a stricter approach on the nations it designates. It has terminated TPS for several nations with a goal of returning the program to its intended temporary purpose.⁵ In March 2025, approximately 1.3 million people with TPS lived in the United States; since then, terminations have revoked TPS for at least 700,000.⁶

III. HISTORY

A. Current Stances

What are the stances surrounding this issue? Supporters of the decision argue that Temporary Protected Status is legally temporary and should end when the Department of Homeland Security determines that conditions in a country have improved. They also claim that Congress gave the DHS Secretary broad authority and limited judicial review of TPS decisions. Opponents argue that courts should still be able to review whether DHS followed required procedures and evaluations. Many have warned that ending TPS could expose refugees to danger, deportation, job loss, and family separation. In *Mullin v. Doe*, the Supreme Court ruled 6–3 for the government. The Court reasoned that due to federal laws preventing courts from reviewing non-constitutional cases to decisions regarding TPS.[12] [13]

B. Tried Policy

Congress created Temporary Protected Status in 1990 to protect people who could not safely return to their home countries. TPS prevents deportation and allows recipients to work, but it does not provide permanent residency. Haiti received TPS in 2010 after its earthquake, and Syria in 2012 because of ongoing civil conflict. Both designations were repeatedly extended as successive administrations determined that dangerous conditions continued. The first Trump administration attempted to terminate Haiti's TPS designation in 2018, but federal courts blocked the termination from taking effect. The Biden administration later redesignated Haiti and extended protections for both Haiti and Syria. In 2025, the Trump administration terminated protections for both countries. [14][15]

IV. POLICY PROBLEM

A. Stakeholders

The Supreme Court's decision in *Mullin v. Doe* primarily affects Temporary Protected Status (TPS) recipients from Syria and Haiti, many of whom have lived and worked in the United States for years. In addition, the families of these TPS beneficiaries, employers, organizations advocating for immigrants' rights, as well as states and local communities that depend on TPS beneficiaries as members of the workforce, may also be affected. Furthermore, the Department of Homeland Security (DHS), as well as the federal government, will be directly affected since the decision upholds the power of the executive branch to terminate TPS with limited judicial intervention.

B. Risks of Indifference

Without congressional action to clarify this issue, many immigrants would have their work authorization and protection from deportation removed when each executive administration ends the designations of TPS, leaving families separated and labour shortages in the industries dependent on the TPS beneficiaries. In order to change this situation, some advocates argue Congress should codify TPS to reduce policy changes between administrations.

C. Nonpartisan Reasoning

Proponents of the decision by the Court have stated that the intention of Congress was that TPS is only a temporary humanitarian program and that the executive branch must have broad discretion to decide whether or not conditions in the foreign nation make it inappropriate to maintain the protections. However, critics of the decision state that most TPS recipients have already built up a life in America and that the conditions in nations like Haiti and Syria still make them unsafe places for their people.

V. POLICY OPTIONS

In *Mullin v. Doe*, the central policy options focused on whether to prolong or discontinue

Temporary Protected Status (TPS) for Haitian and Syrian nationals; the main point of contention throughout the case was whether the executive decision to terminate TPS was liable to judicial scrutiny under the Administrative Procedure Act (APA).² Congress debated the possibility of extending TPS designations for Haitian nationals for another cycle through legislation such as H.R. 1689 and its Senate companion, S. 4814, maintaining the status quo, though the measure was ultimately rejected when Senate Republicans blocked it.³ Members of Congress and organizations such as the U.S. Conference of Catholic Bishops argued that the living conditions in Haiti and Syria justified the extension of TPS protections, and was the only policy option that matched the original humanitarian intent of the TPS program.⁴

Another policy option that represented a middle-ground option, urged by the U.S. Conference of Catholic Bishops, was discontinuing TPS but concurrently shifting the affected 350,000 Haitians and 6,000 Syrians into a provisional Deferred Enforced Departure (DED) status.⁵ With this choice, the administration could achieve its ultimate goal of terminating the formal TPS designation while granting a temporary grace period with work authorization to the impacted persons, consistent with past DED grants such as the one-year period extended to Haitian nationals in 1997.⁶ Granting a DED status onto the affected individuals would have given nationals from Haiti and Syria time to pursue alternative legal routes toward permanent status, mirroring how DED bridged Liberian nationals into the Liberian Refugee Immigration Fairness adjustment-of-status process.⁷

In the end, all of these different policy options were not approved. The legislature did not agree to extend TPS legislation while the executive branch refused to offer DED protection to affected people from Syria and Haiti. Rather, the government moved to terminate the TPS

designations, which led to lawsuits about whether this decision was according to law. Thus, now the debate is about whether the TPS program should be maintained as a policy rather than whether the executive branch has followed the necessary legal procedures.

VI. CONCLUSIONS

In conclusion, *Mullin v. Doe* emphasizes the continuous disputes regarding the future of Temporary Protected Status along with how the executive branch will play a role in determining whether or not it will continue. As discussed throughout this brief, SCOTUS ruled that it is up to the executive branch to determine the continuation of TPS. Therefore, decisions surrounding the future of TPS are not subject to judicial review, granting the administration the power to end TPS protections for Haiti among other countries. Supporters of this decision claim TPS was a temporary program. On the other hand, critics argue that many people are still subject to the protections of TPS due to the unsafe conditions of their home countries. As debates progress, the executive branch, Congress, SCOTUS, and advocacy groups will continue to shape the future of Temporary Protected Status.

VII. ACKNOWLEDGMENT

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