

Federal Courts Preserve TPS Protections for Haiti and Ethiopia But Venezuela Litigation Continues: 4 Steps for Employers

Insights

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Recent federal court orders raise important compliance considerations for employers with TPS-authorized employees. Judges have temporarily preserved Temporary Protected Status and work authorization for Haiti and Ethiopia, whereas TPS for Venezuela remains unresolved and subject to further court action. What does this mean for employers? Here's an update on recent TPS-related developments and a four-step action plan.

Haiti

The Department of Homeland Security planned to end TPS for Haiti on February 3, but was blocked by a federal court order the day before. As a result, TPS protections for Haitian nationals remain in place while the case moves forward. This includes continued employment authorization and protection from removal. Additionally, existing work authorization remains valid while the litigation plays out.

Key Takeaway: For Form I-9 purposes, employers should continue to accept Employment Authorization Documents issued under categories A12 or C19, including those that are facially expired but automatically extended under existing guidance.

Ethiopia

A similar outcome for Ethiopia TPS occurred on January 30 when a federal court in Massachusetts temporarily blocked DHS's decision to terminate the program. TPS for Ethiopia was scheduled to end on February 13. The court's order preserves the status quo while it considers the merits of the case.

Key Takeaway: During this time, Ethiopian TPS beneficiaries continue to be authorized to work and remain protected from detention and removal. Individuals with pending TPS applications tied to Ethiopia's designation also continue to receive associated protections, including eligibility for employment authorization.

Venezuela

TPS for Venezuela remains the subject of ongoing litigation. Although recent appellate decisions have questioned DHS's authority to terminate Venezuela's TPS designation, those rulings have not resulted in an automatic restoration of TPS or employment authorization.

Key Takeaway: Employers should continue to rely on current DHS guidance and applicable Federal Register notices when evaluating work authorization for Venezuelan nationals.

4 Steps Employers Should Consider Taking Now

- 1. Focus on I-9 Compliance.** Employers should continue to comply with standard Form I-9 procedures and accept valid TPS-related employment authorization documents where required.
- 2. Eliminate Perceived Bias.** As always, rejecting valid documents or requesting additional documentation based on citizenship or immigration status may raise discrimination concerns under federal or state law. Be sure your HR and hiring team are properly trained on I-9 and other related immigration rules and best practices.
- 3. Track the Latest Developments.** Given the rapidly evolving nature of TPS litigation, employers should monitor developments closely and be prepared for additional changes.
- 4. Consult with Counsel.** Reach out to your immigration attorney with any questions about the current state of TPS designations for specific countries and any related immigration compliance concerns.

Conclusion

We will continue to monitor developments and provide additional updates as new information becomes available. In the meantime, we encourage you to sign up for [Fisher Phillips' Insight System](#) to receive the latest updates. If you have further questions, please contact your Fisher Phillips attorney, the author of this insight, or any attorney in [our Immigration Practice Group](#).

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