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SUPREME COURT BACKS TRUMP ADMINISTRATION'S TERMINATION OF TPS PROTECTIONS FOR HAITI AND SYRIA: WHAT EMPLOYERS SHOULD KNOW AND DO NOW

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Supreme Court Backs Trump Administration's Termination of TPS Protections for Haiti and Syria: What Employers Should Know and Do Now

The Supreme Court just upheld the Trump administration's terminations of temporary protected status (TPS) for both Haiti and Syria, and the ruling will significantly impact employers with TPS-authorized employees. The Court's 6-3 decision on June 25 will also have broad implications for TPS for other countries, as it gives the executive branch broad discretion in determining whether to end or extend such legal protections while significantly restricting courts' power to intervene. This Insight will explain what this ruling means for employers and offer practical steps you should take now.

[Ed. Note: TPS-based Employment Authorization Documents (EADs) for Haiti and Syria will expire on July 24, 2026, according to USCIS announcements on July 10 (Haiti) and July 17 (Syria).]

Quick Background

TPS is a legal protection for immigrants from countries experiencing unsafe conditions, such as ongoing conflict or natural disasters. This program allows eligible individuals to

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Shanon R. Stevenson

Partner

[404.240.5842](tel:404.240.5842)

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live and work legally in the United States, offering temporary relief from potential deportation.

Haiti and Syria each received TPS designations in 2010 and 2012, respectively. Last year, the Department of Homeland Security announced that TPS for both countries would terminate effective November 21, 2025 (Syria) and effective February 3, 2026 (Haiti). (Prior to this, the Trump administration had tried, but failed, to end TPS for Haiti even sooner.)

However, nationals from each country challenged the terminations in two separate lawsuits filed in federal district courts, and, before the designations expired, district courts issued orders temporarily blocking the terminations while the lawsuits played out. The appeals court in each case denied the government's request to effectively undo the lower courts' orders while the litigation was pending.

All of this led to extensions of TPS designation for both Haiti and Syria through July 1, 2026 – and the government bringing the cases to the Supreme Court.

SCOTUS Sides With Trump Administration, Reverses Orders Postponing TPS Terminations

The Supreme Court issued a decision on June 25 in *Mullin v. Doe*, ruling 6-3 in favor of the Trump administration by reversing the district courts' orders to postpone the TPS terminations for Haiti and Syria pending resolution of each respective case. In an opinion written by Justice Alito, the Court held that:

- SCOTUS was barred from reviewing the respondents' claims under the Administrative Procedure Act, interpreting the TPS statute broadly to conclude that its "judicial-review bar applies to **all** non-constitutional claims" – whether substantive or procedural;
- the equal protection claims asserted in the suit brought by five Haitian nationals – which alleged that the termination of Haiti's TPS designation was unconstitutional because it was motivated by race – were unlikely to succeed; and
- the district courts therefore erred in temporarily blocking the TPS terminations for Haiti and Syria from taking effect while the lawsuits played out.

The dissent, written by Justice Kagan and joined by Justices Sotomayor and Jackson, acknowledged that while the TPS program does not promise “never-ending humanitarian protection,” the law does prevent it from ending “as it likely did here without the required consultations about country conditions and, as to Haiti, with impermissible race-based considerations tainting the decision.”

The Supreme Court’s decision reverses the lower courts’ orders that postponed the TPS terminations for Haiti and Syria. However, since DHS separately announced extensions of TPS for these countries through July 1, 2026, following the lower courts’ orders, **it is likely that the work authorizations for TPS holders from Haiti and Syria will terminate on July 1, 2026 – if not sooner.**

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What This Means for Employers

TPS allows nationals of designated countries to lawfully remain in the United States and receive Employment Authorization Documents (EADs), which qualify as List A documents for Form I-9 purposes. Once TPS is formally terminated, EADs issued under TPS become invalid, and continued employment without new work authorization may lead to legal exposure for employers.

If you employ Haitian or Syrian TPS employees, you must act quickly to understand how the *Mullin* decision impacts your workforce and take action as needed. As mentioned above, it’s likely that TPS for Haiti and Syria will terminate on July 1. The time to act is now. Continuing to employ an individual after their work authorization has expired violates federal law. Employers may face:

- Civil penalties for knowingly continuing to employ unauthorized workers
- I-9 audit failures for improper reverification
- Loss of federal contracts in severe cases
- Even good-faith mistakes can expose an employer to liability.

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In addition, employers should start planning now for DHS to terminate TPS designations for other countries. Today's decision gives the agency broad authority to do so and bars judicial review of all non-constitutional claims related to such determinations. According to the dissent in *Mullin*: "After today, a Secretary can announce to the world that she didn't consult with anyone – more, that she didn't evaluate country conditions at all – before making, extending, or terminating a TPS designation. And the courts will be powerless to intervene." In the majority opinion, the Court acknowledged these concerns but concluded that "if a Secretary engaged in the sort of conduct that respondents imagine, Congress would have ample means to stop that abuse, including, for example, through the annual appropriations process."

What Employers Should Do Now

- **Identify Haitian and Syrian TPS Employees:** Review your I-9 records to identify employees who presented Haitian or Syrian TPS-based EADs (Category A12 or C19).
- **Communicate Thoughtfully:** Let affected employees know about potential impacts and encourage them to seek legal advice to explore potential options if they cannot produce alternate acceptable documents to reverify their Form I-9s.
- **Plan for Reverification:** The Form I-9 must be reverified with valid, current documentation. Avoid requesting specific documents.
- **Stay Informed:** Monitor USCIS's TPS Haiti and Syria pages and I-9 Central for updates.

Conclusion

We will continue to monitor developments and provide updates as warranted, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information directly to your inbox. If you have questions, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Immigration Practice Group](#).

