

Mobility: immigration alert

March 2022

United States

Temporary Protected Status for Ukraine nationals for eighteen months

Executive summary

On 3 March 2022, the Department of Homeland Security (DHS) designated Ukraine for Temporary Protected Status (TPS) for eighteen months. TPS is available for individuals who have continuously resided in the United States since 1 March 2022, who are either Ukrainian nationals or are individuals with no nationality who last habitually resided in Ukraine.

Background

TPS is available to eligible nationals who are already in the United States and cannot return to the designated country, such as Ukraine. A country may be designated for TPS when conditions in the country fall under ongoing armed conflict, environmental disasters, or other extraordinary temporary conditions.

Once granted TPS, the beneficiaries are not removable from the United States and can request an employment authorization document (EAD). They may also apply for travel authorization. TPS does not lead to any other immigration status. However, it does not prevent the beneficiary from applying for asylum, another non-immigrant status (such as H-1B or F-1), or an adjustment of status (lawful permanent residency).

Analysis

The designation of Ukraine for TPS is based on ongoing armed conflict and extraordinary temporary conditions. To qualify for TPS, the individual must:

- ▶ Be present in the United States;
- ▶ Have continuously resided in the United States since 1 March 2022;
- ▶ Be a Ukrainian national, or have no nationality but last habitually resided in Ukraine; and
- ▶ Undergo security and background checks

To apply for TPS, the individual must prepare and file Form I-821, Application for Temporary Protected Status, which is available online and in paper. To request employment authorization document, the individual should also prepare Form I-765, Request for Employment Authorization, which may be submitted at the same time as the Form I-821, or separately after the I-821 has been submitted. Supporting documents for Form I-821 include identity and nationality evidence to demonstrate the applicant's identity and nationality (or the lack thereof and last habitual residence), and documentation of date of entry into the United States.

There is no derivative TPS status for minor children or parents of TPS beneficiaries; each person must independently apply for TPS and show eligibility for protection.

TPS is renewable, subject to the registration period of the designated country and possible re-registrations once the initial period ends.

What this means

TPS is one venue of protection for Ukrainian nationals present in the United States. DHS has described “Russia’s premeditated and unprovoked attack on Ukraine [that] has resulted in an ongoing war, senseless violence, and Ukrainians forced to seek refuge in other countries” as the reason for designating Ukraine for TPS.

Ukrainian nationals and other eligible individuals who are in the United States will be able to apply for TPS in order to avoid suffering immigration consequences due to their inability to return to Ukraine during ongoing armed conflict and extraordinary conditions.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

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