

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****[INS No. 2151-01; AG Order No. 2506-2001]****RIN 1115-AE26****Extension and Redesignation of Somalia under Temporary Protected Status Program****AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Notice.

SUMMARY: On September 16, 1991, the Attorney General designated Somalia under the Temporary Protected Status (TPS) program for a 12-month period that expired on September 16, 1992. That initial designation allowed eligible nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who had continuously resided in the United States since September 16, 1991, to apply for TPS. That initial designation has been extended each subsequent year. Presently, TPS for Somalia is scheduled to expire on September 17, 2001.

This notice extends the TPS designation for Somalia for another 12-month period (until September 17, 2002) and sets forth the procedures by which nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who previously registered for TPS may re-register for the TPS program.

This notice also redesignates Somalia under the TPS program, thereby expanding TPS eligibility to include nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who, among other requirements described in this notice, have been "continuously physically present in the United States" since September 4, 2001.

EFFECTIVE DATES:

Extension of designation and reregistration. The extension of Somalia's TPS designation is effective September 17, 2001, and will remain in effect until September 17, 2002. Nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who are currently registered under the TPS program must reregister during the 90-day period from September 4, 2001 until December 3, 2001.

Redesignation. The redesignation of Somalia under the TPS program is effective September 4, 2001 and will remain in effect until September 17, 2002. The registration period for TPS under the redesignation begins on

September 4, 2001 and will remain in effect until September 17, 2002.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

What is the statutory authority for the Attorney General to extend Somalia's TPS designation under the TPS program?

Section 244(b)(3)(A) of the Immigration and Nationality Act (Act) states that at least 60 days before the end of a designation, or any extension thereof, the Attorney General must review conditions in the foreign state for which the designation is in effect. 8 U.S.C. 1254a(b)(3)(A). If the Attorney General does not determine under this section that the foreign state no longer meets the conditions for designation, the period of designation is automatically extended for 6 months pursuant to section 244(b)(3)(C) of the Act. 8 U.S.C. 1254a(b)(3)(C). The period of designation may, however, be extended for a period of 12 or 18 months at the Attorney General's discretion. 8 U.S.C. 1254a(b)(3)(C). Such an extension makes TPS available only to persons who have been continuously physically present in, and who have continuously resided in, the United States from the effective date of the initial designation, in this case, since September 16, 1991.

What is the statutory authority for the Attorney General to redesignate Somalia for TPS?

Section 244 of the Act implicitly authorizes the Attorney General to redesignate a foreign state (or part of such foreign state) under the TPS program. Whereas extension of an existing TPS designation extends benefits only to those who previously registered for TPS under the earlier designation, redesignation broadens the potential class of TPS beneficiaries. Redesignation expands TPS eligibility to include both those who were present in the United States before the effective date of the earlier designation but failed to register during the earlier designation period and those who arrived in the United States after the effective date of the earlier designation, but on or before, the effective date of the re-designation. 8 U.S.C. 1254a(c)(1)(A).

Why did the Attorney General decide both to extend Somalia's designation and to redesignate Somalia under the TPS program?

On September 16, 1991, the Attorney General designated Somalia under the TPS program. Since that time, the Attorney General and the Department of State have continuously examined conditions in Somalia. A recent Department of State report on conditions in Somalia found that "[o]pen conflict remains a fact of life in southern Somalia, where numerous actors compete for land and power. While northern regions of Somalia are relatively stable and peaceful, their security is jeopardized by the instability in the [S]outh." The report further states that "[t]he current security situation in southern Somalia makes the return of Somalis from the United States dangerous. Major regions of the country are under the control of bandits and the population is beyond the reach of the rule of law. The country's nascent institutions are not able to adequately address the demands of a ravaged population, nor would they be able to document or accommodate a large volume of returns. Somalis within the country rely on family connections and collective security for survival. New arrivals, outside this network, would be vulnerable in the extreme."

The Resource Information Center of the Immigration and Naturalization Service (Service) recently prepared a report that concludes that "[f]ighting occurred in Mogadishu this March on the largest scale in years. Gunmen continue to ambush civilians and political figures alike." According to the report, "[k]idnappings occur frequently, and with no functioning government-wide judicial system crimes are often ignored. Drought, malnutrition, and cholera continue to ravage the country."

Based on these findings, the Attorney General has determined that conditions in Somalia warrant both the extension and redesignation of Somalia under the TPS program. This order will extend TPS for those nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who registered under the initial designation of TPS, while also opening the program to both those who failed to register during the initial designation period and those who arrived in the United States after the effective date of the earlier designation, but on or before the effective date of redesignation. 8 U.S.C. 1254a(c)(1)(A).

If I currently have TPS through the Somalia TPS program, do I still need to reregister for TPS?

Yes. If you currently have TPS through the Somalia TPS program, your status will expire on September 17, 2001. Accordingly, you must reregister for TPS in order to maintain your status through September 17, 2002. See the reregistration instructions below.

If I am currently registered for TPS, how do I reregister for an extension?

All persons previously granted TPS under the Somalia program who wish to maintain such status must apply for an extension by filing the following: (1) A Form I-821, without the \$50 filing fee, (2) a Form I-765, Application for Employment Authorization, and (3) two identification photographs (1½ inches ×

1½ inches). See Chart 1 below to determine whether you must submit the \$100 filing fee with a Form I-765. Children who are beneficiaries of TPS and who have reached the age of 14, but who were not previously fingerprinted, must pay the \$25 fingerprint fee upon their next application for extension.

CHART 1.—FILING FEE FOR FORM I-765 UNDER TPS EXTENSION

| If | Then |
|---|--|
| You are applying for employment authorization through September 17, 2002. | You must complete and file: Form I-765, Application for Employment Authorization, with the \$100 filing fee. |
| You already have employment authorization or do not require employment authorization. | You must complete and file: (1) Form I-765, with no filing fee. |
| You are applying for employment authorization and are requesting a fee waiver. | You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, and (2) Form I-765, with no fee. |

Submit the completed forms and applicable fee, if any, to the Immigration and Naturalization Service district office having jurisdiction over your place of residence during the 90-day reregistration period that begins on September 4, 2001 and ends on December 3, 2001 (inclusive of such end date).

If you fail to reregister during the 90-day reregistration period, you may apply for TPS under the redesignation, as described below.

If I am not currently registered for TPS, how do I register under the redesignation?

Applicants who are not currently registered for TPS may register under the redesignation by submitting:

(1) A Form I-821, Application for Temporary Protected Status, with the \$50 processing fee or a request for a fee waiver;

(2) A Form I-765, Application for Employment Authorization;

(3) Two identification photographs (1½ x 1½ inches);

(4) Supporting evidence, as provided in 8 CFR 244.9 (describing evidence necessary to establish eligibility for TPS benefits); and

(5) For every applicant who is 14 years of age or older, a \$25 fingerprint fee. 8 CFR 244.6.

Although a complete application must include the fingerprint fee for every applicant who is 14 years of age or older, applicants should not submit a completed fingerprint card (FD-258,

Applicant Card) with the application package. The application will be accepted without the fingerprint card attached. After the Service receives the application, the Service will mail an appointment letter with instructions to appear for fingerprinting at a Service-authorized site. See Chart 2 below to determine what fees must be submitted with the application package and to obtain information on requesting a fee waiver(s).

Submit the completed forms and applicable fees to the Service district office having jurisdiction over your place of residence during the registration period that begins September 4, 2001 and ends September 17, 2002 (inclusive of such end date).

CHART 2.—FILING FEES FOR FORM I-821 AND FORM I-765 UNDER TPS RE-DESIGNATION

| If | Then |
|---|---|
| You are applying for TPS and employment authorization through September 17, 2002. | You must complete and file: (1) Form I-821, Application for Temporary Protected Status, with fee (\$50). (2) Form I-765, Application for Employment Authorization, with fee (\$100), and (3) Fingerprint fee (\$25). |
| You already have employment authorization or do not require employment authorization. | You must complete and file: (1) Form I-821, with fee (\$50). (2) Form I-765, with no fee, and (3) Fingerprint fee (\$25). |
| You are applying for TPS and employment authorization and are requesting a fee waiver for the Form I-821 fee (\$50), or Form I-765 fee (\$100). | You must complete and file: (1) Fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20, (2) Form I-821, with no fee, (3) Form I-765, with no fee, and (4) Fingerprint fee (\$25). |

What are the requirements for nationals of Somalia (or persons who have no nationality and who last habitually resided in Somalia) to demonstrate that they have been "continuously physically present" and have "continuously resided" in the United States?

All applicants for TPS must demonstrate that they have been "continuously physically present," and have "continuously resided," in the United States since September 4, 2001. "Continuously physically present" means actual physical presence in the United States for the entire period specified. An applicant shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of "brief, casual, and innocent absence's, as the phrase is defined in 8 CFR 244.1. "Continuously resided" means residing in the United States for the entire period specified. An applicant will not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence or due merely to a brief, temporary trip abroad required by emergency or extenuating circumstances outside the control of the applicant.

For new applicants who seek to register for the first time under the redesignation of Somalia for TPS, 8 CFR 244.9 provides a non-exhaustive list of documents that applicants may use to demonstrate their identity, nationality, and residency.

For those individuals who previously registered for TPS and who seek to reregister under the extension of TPS for Somalia, completing the block on the Form I-821 attesting to the continued maintenance of the conditions of eligibility will generally preclude the need for supporting documents or evidence. The Service, however, reserves the right to request additional information and/or documentation on a case-by-case basis.

Notice of Extension of Designation and Re-Designation of Somalia Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act, and as required by sections 244(b)(3)(A) and (C), and 244(b)(1) of the Act, I have consulted with the appropriate government agencies concerning the redesignation of Somalia under the TPS program and the extension of that state's current TPS designation. Based on these consultations, I find the following:

(1) There exist extraordinary and temporary conditions in Somalia that prevent aliens who are nationals of

Somalia (and aliens having no nationality who last habitually resided in Somalia) from returning to Somalia in safety; and

(2) Permitting nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) to remain temporarily in the United States is not contrary to the national interest of the United State. 8 U.S.C. 1254a(b)(1)(C).

Accordingly, I order as follows:

(1) The designation of Somalia is extended for the 12-month period spanning from September 17, 2001, to September 17, 2002. 8 U.S.C. 1254a(b)(3)(A) and (C). Nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who received TPS during the initial designation period may apply for an extension of TPS during the 90-day reregistration period from September 4, and December 3, 2001.

(2) Somalia is redesignated for TPS for the period effective from September 4, 2001 until September 17, 2002. 8 U.S.C. 1254a(b) (2). Nationals of Somalia (and aliens having no nationality who last habitually resided in Somalia) who have been "continuously physically present" and have "continuously resided" in the United States on or before September 4, 2001 may apply for TPS within the registration period, which begins September 4, 2001 and ends on September 17, 2002 (inclusive of such end date).

(3) I estimate that there are approximately 300 nationals of Somalia (or aliens who have no nationality and who last habitually resided in Somalia) who were granted TPS and are eligible for reregistration, and no more than 7,000 nationals of Somalia (or aliens who have no nationality and who last habitually resided in Somalia) who are not currently registered for TPS, but who are eligible for TPS under this redesignation.

(4) In order to maintain TPS, a national of Somalia (or an alien having no nationality who last habitually resided in Somalia) who is currently registered for TPS must reregister by filing the Form I-821, together with the Form I-765, and two identification photographs (1½ inches by 1½ inches) within the 90-day period beginning September 4, 2001 and ending on December 3, 2001 (inclusive of such end date). There is no fee for a Form I-821 filed as part of the reregistration application. A Form I-765 must be filed with the Form I-821. If the applicant requests employment authorization, he or she must submit \$100 or a properly documented fee waiver request, pursuant to 8 CFR 244.20, with the

Form I-765. An applicant who does not request employment authorization must nonetheless file the Form I-765 along with the Form I-821, but is not required to submit the fee. The \$25 fingerprint fee is required only for children who are beneficiaries of TPS who have reached the age of 14 but were not previously fingerprinted.

(5) A national of Somalia (or an alien having no nationality who last habitually resided in Somalia) applying for TPS under the redesignation must file the Form I-821, Form I-765, two identification photographs (1½ inches by 1½ inches), and all supporting evidence within the period beginning September 4, 2001 and ending on September 17, 2002. A \$50 fee must accompany the Form I-821. If the applicant requests employment authorization, he or she must submit a \$100 fee with the Form I-765. A \$25 fingerprinting fee must also be submitted for every applicant who is 14 years of age or older. An applicant who does not request employment authorization must nonetheless file the Form I-765 along with the Form I-821, but is not required to submit the \$100 fee for the Form I-765. The applicant may request a waiver of the fee(s) in accordance with 8 CFR 244.20.

(6) Pursuant to section 244(b) (3) (A) of the act, I will review, at least 60 days before September 17, 2002, the designation of Somalia under the TPS program to determine whether the conditions for designation continue to be met.

(7) Information concerning the extension and redesignation of Somalia under the TPS program will be available upon publication of this notice at local Service offices and on the Service website at <http://www.ins.usdoj.gov>.

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01-22152 Filed 8-31-01; 8:45 am]

BILLING CODE 4410-10-M