

# **EXHIBIT 139**

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services



U.S. Citizenship  
and Immigration  
Services

## DECISION

### MEMORANDUM FOR THE SECRETARY

FROM: James McCament  
Acting Director

SUBJECT: South Sudan's Designation for Temporary Protected Status

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**Purpose:** South Sudan's existing designation for Temporary Protected Status (TPS) will expire on November 2, 2017. At least 60 days before a TPS designation expires, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the designated foreign country to determine whether the conditions for such designation continue to be met. If the Secretary determines that the foreign country no longer continues to meet the statutory conditions for designation, she shall terminate the designation. If the Secretary finds, however, that the conditions for designation continue to be met, the TPS designation must be extended for 6, 12, or 18 months.<sup>1</sup>

U.S. Citizenship and Immigration Services (USCIS) has completed a review of the conditions in South Sudan and is presenting options for your consideration. As part of the review process, USCIS has consulted with the Department of State (DOS). DOS assesses that the statutory conditions supporting South Sudan's TPS designation continue to be met. Accordingly, Secretary Tillerson recommends an 18-month extension of South Sudan's designation for TPS and its simultaneous redesignation.

**Background:** South Sudan gained independence from Sudan on July 9, 2011, and was initially designated for TPS a few months later, on October 13, 2011.<sup>2</sup> The 2011 designation was based both on ongoing armed conflict and extraordinary and temporary conditions in South Sudan.<sup>3</sup> South Sudan's designation has since been extended three

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<sup>1</sup> See Immigration and Nationality Act (INA) § 244(b)(3)(A-C), 8 U.S.C. § 1254a(b)(3)(A-C); see also Attachment A: Temporary Protected Status Legal Authority.

<sup>2</sup> See Designation of Republic of South Sudan for Temporary Protected Status, 76 FR 63629 (Oct. 13, 2011).

<sup>3</sup> See INA § 244(b)(1)(A), (C).

times, and each time it has also been redesignated.<sup>4</sup> To be eligible for TPS under South Sudan's designation, along with meeting the other eligibility requirements, individuals must have continuously resided in the United States since January 25, 2016, and have been continuously physically present in the United States since May 3, 2016.

#### Demographic Information on South Sudanese TPS Beneficiaries

There are currently 49 South Sudanese TPS beneficiaries, 10 female and 39 male. They range in age at the time of approval from 11-77 years of age, with most in their 20s, 30s, or 40s. Four were 18 years of age or younger at the time of approval. South Sudanese TPS beneficiaries live in 24 states across the country, with Iowa, Minnesota, New York, and Texas hosting the largest number at four South Sudanese TPS beneficiaries each. Their self-reported immigration status at the time of their initial TPS application included one diplomat, 14 students, and 31 "unknowns."

#### Country Conditions

USCIS and DOS have each conducted a thorough review of conditions in South Sudan. The country condition reports, upon which this recommendation is based, can be found in Attachments B and C. In summary, the ongoing armed conflict and extraordinary and temporary conditions that supported South Sudan's designation for TPS persist, with conditions worsening since the last extension and redesignation in 2015.

South Sudan is engulfed in an ongoing civil war marked by brutal violence against civilians, gross human rights violations, and a humanitarian disaster on a devastating scale across the country. In July 2016, following a failed peace agreement, fighting broke out in Juba between the Sudan People's Liberation Army (SPLA) and the Sudan People's Liberation Army – In Opposition (SPLA-IO). During and after the battle, there were widespread attacks on civilians, including ethnically based killings and sexual assaults, resulting in significant displacement. After the battle ended in Juba, violence escalated and expanded to other parts of the country, with the government's counter-insurgency operations reportedly entailing mass atrocities and destruction of villages.

Women and children have been particularly affected by the conflict. Sexual and gender-based violence is widespread and rape is used widely as a weapon of war. In March 2017, the United Nations Human Rights Council reported that there had been a 61% increase in the number of cases of sexual or gender-based violence reported between 2015 and 2016. The conflict has deprived children of education and basic health services, and left them at risk of being killed, abducted, sexually assaulted, and recruited as child soldiers.

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<sup>4</sup> See Extension and Redesignation of South Sudan for Temporary Protected Status, 78 FR 1866 (Jan. 9, 2013); Extension and Redesignation of South Sudan for Temporary Protected Status, 79 FR 52019 (Sept. 2, 2014); Extension and Redesignation of South Sudan for Temporary Protected Status, 81 FR 4051 (Jan. 25, 2016).

South Sudan's Designation for Temporary Protected Status  
Page 3

South Sudan is the largest source of displacement in Africa. At the end of February 2017, approximately 3.6 million people had been displaced, including 1.7 million who fled to neighboring states and 1.9 million internally displaced persons, of which 50% were children.

South Sudan is experiencing an unprecedented level of food insecurity due to the protracted violence, displacement, and the lack of access for humanitarian actors to deliver aid. As of April 2017, about 42% of the population (4.9 million people) was estimated to be severely food insecure. Additionally, half the country's water points have been damaged or destroyed, resulting in a cholera outbreak that began in June 2016 and continues today.

In addition to the ongoing conflict, South Sudan is experiencing a severe economic crisis. In 2016, the South Sudanese pound depreciated 70% against the dollar. Year-on-year inflation from January 2016 to January 2017 was around 400%.

Options

Your options include the following actions:

1) *Extend South Sudan's Designation for TPS*

Under the TPS statute, if you determine that the statutory conditions supporting a country's designation for TPS continue to exist, you must extend the TPS designation for an additional period of 6, 12, or 18 months. The review of conditions in South Sudan indicates that it remains unsafe for individuals to return to South Sudan and that the statutory requirements to designate a country for TPS under *Immigration and Nationality Act* § 244(b)(1)(A) (ongoing armed conflict) and under § 244(b)(1)(C) (extraordinary and temporary conditions) continue to be met. DOS also assesses that the statutory bases for South Sudan's TPS designation continue to be met. Accordingly, Secretary Tillerson recommends an 18-month extension (and redesignation) of South Sudan's designation for TPS.

From an operational perspective, extension periods of less than 18 months are challenging given the significant workload and timeframes involved in receiving and adjudicating re-registration applications and issuing new employment authorization documents. Additionally, the deliberative review process to support TPS decision making, including consultation with DOS, typically begins ten months before the expiration date of a country's current designation. In light of these USCIS operational considerations, if you determine an extension is warranted, USCIS prefers the longest extension possible.

An 18-month extension of South Sudan's designation for TPS would permit current South Sudanese TPS beneficiaries to re-register for TPS and remain in the United States with work authorization through May 2, 2019.

## 2) *Redesignate South Sudan for TPS*

In addition to extending South Sudan's current designation for TPS, you may, in your discretion, also redesignate South Sudan for TPS. This would allow you to advance the continuous residence date to match the publication date of the *Federal Register* notice announcing the redesignation, expanding TPS eligibility to include South Sudanese nationals who began residing in the United States after the current continuous residence date of January 25, 2016. Based on trends from the last redesignation period and recent South Sudanese nonimmigrant admissions data, approximately 150 individuals are expected to become newly eligible for TPS if South Sudan is redesignated.

Although redesignation of a country for TPS is recommended only sparingly, it may be warranted in this instance due to the deterioration of the conditions for civilians in South Sudan and the need to offer protection to individuals who have arrived in the United States since the current continuous residence date in 2016. Secretary Tillerson recommends an 18-month redesignation to run simultaneously with an 18-month extension of South Sudan's TPS designation.

## 3) *Terminate South Sudan's Designation for TPS*

If you determine that South Sudan no longer continues to meet the statutory requirements for its TPS designation, you must terminate TPS for South Sudan. Termination would end TPS benefits for existing South Sudanese TPS beneficiaries. Upon the termination of TPS benefits, former beneficiaries without another immigration status or authorization to remain would no longer have permission to work and remain in the United States. Because the conditions supporting South Sudan's TPS designation persist, termination does not appear to be warranted.<sup>5</sup>

**Timeliness:** You are required to provide timely notice of whether existing TPS designations will be extended or terminated through publication in the *Federal Register*.<sup>6</sup> Your earliest decision will facilitate publication of notice in the *Federal Register* sufficiently in advance of the November 2, 2017 expiration of South Sudan's designation,

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<sup>5</sup> If you decide to terminate South Sudan's designation, you may determine the appropriate effective date of the termination. You also have the option to provide for an orderly transition period (e.g., 6, 12, or 18 months) after which TPS documentation will end. Delaying the effective date would provide those beneficiaries without any other immigration status a reasonable amount of time following the announcement of termination of the designation to plan and prepare for their departure from the United States. *See* INA § 244(b)(3)(B), (d)(3) and 8 C.F.R. § 244.19. Note: the effective date of termination may not be earlier than 60 days after the date the *Federal Register* notice announcing the termination is published or, if later, the expiration of the most recent previous extension.

<sup>6</sup> *See* INA § 244(b)(3)(A).

South Sudan's Designation for Temporary Protected Status  
Page 5

providing predictability and clarity to beneficiaries and their employers. If you do not make a decision at least 60 days before the expiration of the current designation (i.e., by September 1, 2017), then South Sudan's designation will automatically be extended for a minimum of 6 months.<sup>7</sup>

**Decision:** You may choose to extend and redesignate, simply extend, or terminate South Sudan's TPS designation.

1. Extend and Redesignate: *Extend South Sudan's designation for TPS and simultaneously redesignate South Sudan for TPS for (circle one):*

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

2. Extend: *Extend South Sudan's designation for TPS for (circle one):*

*6 months*

*12 months*

*18 months*

Approve/date \_\_\_\_\_

3. Terminate: *Terminate South Sudan's designation for TPS with an orderly transition period of (circle one):*

*6 months*

*12 months*

*18 months*

*Other* \_\_\_\_\_

Approve/date \_\_\_\_\_

**Attachments:**

Attachment A: Temporary Protected Status Legal Authority

Attachment B: April 2017 USCIS RAIO Research Unit Report on Conditions in South Sudan

Attachment C: July 22, 2015 DOS Recommendation Regarding Extension and Redesignation of Temporary Protected Status for South Sudan

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<sup>7</sup> See INA § 244(b)(3)(A), (C).