



U.S. DEPARTMENT OF HOMELAND SECURITY
U.S. Citizenship and Immigration Services

www.immigration.gov

For Immediate Release
September 4, 2003

Office of Public Affairs
(202) 514-2648

Questions and Answers
Extension of Temporary Protected Status for Nationals of Burundi

Q. What authority does the Secretary of the Department of Homeland Security have to extend the designation of Burundi under the TPS program?

A. Under section 244 of the Immigration and Nationality Act (Act), the Secretary of DHS, after consultation with appropriate agencies of the Government, is authorized to designate a foreign state or (part thereof) for TPS. The Secretary of DHS may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state).

Section 244(b)(3)(A) of the Act requires the Secretary of DHS to review, at least 60 days before the end of the TPS designation or any extension thereof, the conditions in a foreign state designated under the TPS program to determine whether the conditions for a TPS designation continue to be met and, if so, the length of an extension of TPS. If the Secretary of DHS determines that the foreign state no longer meets the conditions for TPS designation, he shall terminate the designation, as provided in section 244(b)(3)(B) of the Act. Finally, if the Secretary of DHS does not determine that a foreign state (or part thereof) no longer meets the conditions for designation at least 60 days before the designation or extension is due to expire, section 244(b)(3)(C) of the Act provides for an automatic extension of TPS for an additional period of 6 months (or, in the discretion of the Secretary of DHS, a period of 12 or 18 months).

Q. Why did the Secretary of DHS decide to extend the TPS designation for Burundi?

A. Since the date of the last extension, the Departments of Homeland Security and State have continued to review conditions in Burundi. It is determined that a 12-month extension is warranted due to ongoing armed conflict within Burundi that would pose a serious threat to the personal safety of returning nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi).

The Department of State (DOS) observes that the December 2002 ceasefire has been largely ignored. The conflict between the government forces and rebel groups continues unabated in many areas of the country. Rebel attacks on the military are followed by army reprisals against civilians suspected of cooperating with the insurgents. Rebels reportedly often kill persons for suspected collaboration with the government and for their refusal to pay "taxes" to the rebels.

Based upon this review, the Secretary of DHS, after consultation with appropriate government agencies, has found that the conditions that prompted designation of Burundi under the TPS program continue to be met. There is an ongoing-armed conflict within Burundi and, due to such conflict, requiring the return of aliens who are nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) would pose a serious threat to their personal safety. On the basis of these findings, the Secretary of DHS concluded that the TPS designation for Burundi should be extended for an additional 12-month period.

Q. If I currently have TPS through the Burundi TPS Program, do I still re-register for TPS?

A. Yes. If you already have been granted TPS through the Burundi TPS program, your benefits will expire on November 2, 2003. Accordingly, individual TPS beneficiaries must comply with the re-registration requirements described below in order to maintain their TPS status and benefits through November 2, 2004. TPS benefits include temporary protection against removal from the United States, as well as employment authorization, during the TPS designation period and any extension thereof.

Q. If I have been granted TPS, how do I re-register under the extension?

A. All persons previously granted TPS under the Burundi program who wish to maintain such status must apply for an extension by filing (1) a Form I-821, Application for Temporary Protected Status, without the filing fee; (2) a Form I-765, Application for Employment Authorization; and (3) two identification photographs (1½ inches x 1½ inches). See the chart below to determine whether you must submit the one hundred and twenty dollar (\$120) filing fee with Form I-765. Applicants for an extension of TPS benefits do not need to be re-fingerprinted and thus need not pay the \$50 fingerprint fee. Children who have been granted TPS and who have reached the age of fourteen (14) but were not previously fingerprinted must pay the fifty dollar (\$50) fingerprint fee with the application for extension.

An application submitted without the required fee and/or photos will be returned to the applicant. Submit the completed forms and applicable fee, if any, to the BCIS District Office having jurisdiction over your place of residence during the 60-day re-registration period that begins September 3, 2003 and ends November 3, 2003.

If	Then
You are applying for employment authorization until November 2, 2004.	You must complete and file the Form I-765, Application for Employment Authorization, with the \$120 fee.
You already have employment authorization or do not require employment authorization.	You must complete and file Form I-765 with no fee. ¹
You are applying for employment authorization and are requesting a fee waiver.	You must complete and file: 1) Form I-765 and 2) a fee waiver request and affidavit (and any other information) in accordance with 8 CFR 244.20.

Q. How does an application for TPS affect my application for asylum or other immigration benefits?

A. An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an applicant's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS.

Q. Does this extension allow nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) who entered the United States after November 9, 1999, to file for TPS?

A. No. This is a notice of an extension of TPS, not a notice of re-designation of Burundi under the TPS program. An extension of TPS does not change the required dates of continuous residence and continuous physical presence in the United States. This extension does not expand TPS availability to those beyond the current TPS eligibility requirements of Burundi. To be eligible for benefits under this extension, nationals of Burundi (or aliens having no nationality who last habitually resided in Burundi) must have been continuously physically present and continuously resided in the United States since November 9, 1999.

¹ An applicant who does not seek employment authorization documentation does not need to submit the \$120 fee, but must still complete and submit Form I-765 for data gathering purposes.

Q. What is late initial registration?

A. Some persons may be eligible for late initial registration under 8 U.S.C. 1254a(c)(1)(A) and 8 CFR 244.2(f)(2). To apply for late initial registration an applicant must:

- (1) Be a national of Burundi (or alien who has no nationality and who last habitually resided in Burundi);
- (2) Have been continuously physically present in the United States since November 9, 1999;
- (3) Have continuously resided in the United States since November 9, 1999; and
- (4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible under section 244(c)(2)(B) of the Act.

Additionally, the applicant must be able to demonstrate that during the registration period for the initial designation (from November 4, 1997 to November 3, 1998), or during the registration period for the redesignation (from November 9, 1999 to November 2, 2000), he or she:

- (1) Was a nonimmigrant or had been granted voluntary departure status or any relief from removal;
- (2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal or change of status pending or subject to further review or appeal;
- (3) Was a parolee or had a pending request for reparole; or
- (4) Was the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above.

Q. What happens when this extension of TPS expires on November 2, 2004?

A. At least 60 days before this extension of TPS expires on November 2, 2004, the Secretary of DHS will review conditions in Burundi and determine whether the conditions for designation under the TPS program continue to be met at that time, or whether the TPS designation should be terminated. Notice of that determination, including the basis for the determination, will be published in the Federal Register.

If the TPS designation is extended at that time, an alien who has been granted TPS must re-register under the extension in order to maintain TPS benefits. If, however, the Secretary of DHS terminates the TPS designation, TPS beneficiaries will maintain the immigration status they had before TPS (unless that status had since expired or been terminated) or any other status they may have acquired while registered for TPS. Accordingly, if an alien had no lawful immigration status prior to receiving TPS and did not obtain any status during the TPS period, he or she will revert to that unlawful status upon termination of the TPS designation.

-USCIS-

On March 1, 2003, U.S. Citizenship and Immigration Services (USCIS) became one of three former INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing the integrity of our nation's security.