



U.S. Citizenship
and Immigration
Services

July 11, 2019

The Honorable Richard J. Durbin
United States Senate
Washington, DC 20510

Dear Senator Durbin:

Thank you for your March 7, 2019 letter to President Trump. The White House forwarded your letter to the Department of Homeland Security (DHS), and Acting Secretary McAleenan asked that I respond on his behalf.

I appreciate your concern for the situation in Venezuela and your interest in its possible designation for Temporary Protected Status (TPS). The Secretary of Homeland Security may designate a country for TPS and extend or terminate a country's existing TPS designation based upon specific statutory criteria. *See* Immigration and Nationality Act (INA) § 244(b). U.S. Citizenship and Immigration Services (USCIS) is principally responsible for advising the Secretary on TPS issues and implementing the program.

After consultation with appropriate agencies of the Government, the Secretary may designate any foreign state (or any part of such foreign state) for TPS only if: (1) there is an ongoing armed conflict within the country that would pose a serious threat to the personal safety of the country's nationals if they were returned; (2) there has been an environmental disaster resulting in a substantial, but temporary, disruption of the living conditions in the area affected, the country is temporarily unable to handle adequately the return of its nationals, and the country has officially requested TPS designation; or (3) there exist extraordinary and temporary conditions in the country that prevent nationals from returning in safety, and the Secretary does not find that permitting the country's nationals to remain temporarily in the United States would be contrary to the national interest of the United States. *See* INA § 244(b)(1). Because TPS is discretionary, even if the Secretary determines that conditions meet one or more of the prongs for TPS, he or she may still decline to designate the country.

I would further note that a separation of powers concern has arisen with TPS generally. As long as courts continue to displace executive branch authority to terminate TPS status, it makes a decision to exercise the discretion in the first place considerably more complicated and more akin to a permanent status, rather than temporary.

The Honorable Richard J. Durbin
Page 2

As it relates to Venezuela, the U.S. Government continues to monitor the situation in Venezuela. In addition, there may be other immigration relief measures available to Venezuelan nationals affected by the current conditions in Venezuela. Information on these options can be found at www.uscis.gov/humanitarian/special-situations.

Thank you again for your letter and interest in this important issue. The co-signers of your letter will receive separate, identical responses. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in black ink, appearing to read "Ken C II". The signature is stylized with a large, sweeping "K" and a "C" followed by the Roman numeral "II".

Ken Cuccinelli II
Acting Director