



## What to Know if You Are applying for Both TPS and Asylum

Many people who qualify for TPS have also applied for asylum or are considering applying for asylum. This one pager contains important information about the differences between the two and why you might want to seek one or both.

### What is TPS?

- TPS is a temporary form of protection against deportation that comes with work authorization.
- TPS is not available to everyone. Only people from certain countries who meet the requirements can apply.
- TPS has to be renewed regularly, usually every 18 months.
- TPS holders cannot leave and return to the U.S. without special permission and do not have a direct pathway to become U.S. residents or citizens.
- It is possible that a new administration will **stop** TPS renewals for some or all groups.

### What is Asylum?

- Asylum is a permanent form of protection and status in the U.S.
- With asylum, you can eventually apply for your green card and later citizenship.
- It is difficult to win asylum. Generally, you have to apply within **one year** of arriving to the U.S. and be granted asylum after an interview or hearing.
- Asylum requires proof that you will face harm in your country of origin for certain qualifying reasons and that the government there will not protect you.

### If I have applied for asylum, can I still apply for TPS?

Yes, you can still apply for TPS even if you have already applied or plan to apply for asylum.

### If I've already received an employment authorization through my asylum application, can I get a work permit from TPS? What happens if both are approved?

Yes. It is possible to have two different types of employment authorization, although renewing both is more work and can be more expensive than simply renewing one.

### Do I still need to go to immigration court after I apply for TPS or after I get TPS?

Yes. Even if you have TPS, or have applied for TPS, you will be ordered removed if you miss court. Only if your removal case is dismissed or closed can you stop attending court.

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## If I am eligible for TPS, why would I want asylum?

TPS is temporary. It has to be regularly renewed during the re-registration periods, which requires either paying a renewal fee or asking for a waiver of the fee. Also, traveling outside the U.S. requires permission and it is possible that a future president will decide *not* to allow renewals of TPS and will try to end TPS. Under the Trump Administration, the government tried to end TPS for many nationalities that had had TPS for a long time. For these reasons, some people may wish to continue seeking asylum, since it brings more stability and a pathway to U.S. citizenship.

## How do I decide whether my asylum case is worth pursuing or if I should just rely on TPS?

Unlike with TPS, which all applicants who qualify should get, it is difficult to predict whether you will win your asylum case. You will need to testify at a hearing or interview about your past experiences and fears for the future. The strength of your case will depend on those experiences, and the conditions today in your home country. Also, you have to show that your fear of returning is for a reason supported by asylum case law in the U.S. Your chances of winning also depend upon the specific judge and government attorney that are assigned to your case.

If you are not afraid of returning to your home country, or believe or have been advised that your asylum claim is nearly impossible to win, you may be better off not seeking asylum or moving forward in immigration court and instead asking the judge and government attorney to close or dismiss your case. If that happens, you would not have to keep attending court and you will not have to prove you qualify for asylum. You would also not run the risk of losing your asylum case and being ordered removed. However, the Department of Homeland Security (DHS) can still decide to restart your case or bring new removal proceedings against you in the future.

## If I do not want to pursue asylum, what do I tell the immigration judge?

If you have an attorney, talk to the attorney about your options. If you do not have an attorney, you can ask the judge during a hearing in immigration court to close your case. You can also ask the government attorney to dismiss the case. Either one will want to see written proof of your pending or approved TPS application (bring multiple copies of this paperwork with you to court).

## I have a removal order for missing court. Does TPS take care of that?

No. TPS protects you from being deported as long as it is valid. But it does *not* impact, undo or erase a removal order. However, it can be helpful when you ask to have your case reopened. Talk to a trusted representative as soon as possible about the process of reopening your case.

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## If I am eligible for TPS, does it matter if I have an order of removal?

Yes. People with orders of removal can be deported without ever seeing an immigration judge. They are also at high risk of detention – which can happen even while their TPS application is pending. Once TPS is approved, people with removal orders should not be deported. But if someone with a removal order fails to renew TPS on time; the renewal is denied; or TPS ends in the future, then he or she will be a top priority for deportation. If you have a removal order, you should seek advice from Make the Road or another legal service provider as soon as possible to understand your options for trying to reopen your case.

If you have an order of removal, you can seek assistance by calling Make the Road at one of the phone numbers below or calling another trusted nonprofit. Two other organizations that assist New Yorkers who have missed their court hearings are:

Referrals If You Have An Order of Removal		
<b>Make the Road</b>	718-565-8500	Call and say you have an order of removal and are seeking legal assistance
<b>NYLAG</b>	212-613-5000 <a href="mailto:ipuintake@nylag.org">ipuintake@nylag.org</a>	Call and leave a message between 9am-5pm on a Monday
<b>Unlocal</b>	646-216-8210	Call on Monday or Thursday

You can also call Make the Road at one of the numbers below if you need help in applying for TPS!