



CATHOLIC LEGAL IMMIGRATION NETWORK, INC.

Adjustment Options for Temporary Protected Status Beneficiaries

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Introduction

Temporary Protected Status (TPS) is an immigration status provided to nationals of designated countries that are experiencing ongoing armed conflict, environmental disaster, or another extraordinary and temporary condition. While TPS does not provide an independent path to lawful permanent resident (LPR) status, there are ways in which TPS has been able to help some beneficiaries of family-based petitions (primarily immediate relatives) become eligible for adjustment of status, even if they initially entered the United States without being “inspected and admitted or paroled.” Recent legal interpretations have made it difficult for many TPS beneficiaries who initially entered the United States illegally to adjust status through family-based petitions: the U.S. Supreme Court’s 2021 decision in [Sanchez v. Mayorkas](#); the U.S. Citizenship and Immigration Services (USCIS) decision to adopt *Matter of Z-R-Z-C-* in 2020; and a 2019 USCIS policy regarding the effect of authorized travel on unexecuted removal orders. However, on July 1, 2022, USCIS rescinded its adoption of *Matter of Z-R-Z-C-*, and on March 21, 2022, a settlement was reached in *CARECEN v. Jaddou*, which allows certain TPS beneficiaries to seek the reopening and dismissal of prior unexecuted removal orders. This practice advisory reviews these developments and options for adjustment that may be available to help certain TPS beneficiaries adjust under Immigration and Nationality Act (INA) § 245(a), even if they initially entered the United States without being inspected and admitted or paroled.¹

Eligibility Requirements for Adjustment of Status Under INA § 245(a)

To adjust under INA § 245(a), an applicant must have been “inspected and admitted or paroled” upon his or her last entry; have an immigrant visa immediately available; and be admissible (or eligible for an inadmissibility waiver). In addition, INA § 245(c) imposes bars to adjustment that apply to any preference category beneficiary who has either worked without authorization or has failed to continuously maintain lawful immigration status since entry. Because most preference beneficiaries who are in the United States are subject to either or both bars, 245(a) adjustment is typically only available to immediate relatives who have been inspected and

¹ While this advisory focuses on family-based adjustment of status under INA § 245(a), adjustment of status may be available under INA § 245(i) for certain beneficiaries and derivative beneficiaries of an approvable-when-filed petition filed on or before April 30, 2001.

admitted or paroled, since immediate relatives are exempt from these bars.

Example: Rohan from Nepal first came to the United States in 2013 on a tourist visa. He overstayed and in 2015, after Nepal was designated for TPS, he applied for TPS and was approved. In 2018, he married a U.S. citizen and applied for adjustment of status. Since he was inspected and admitted as a tourist and has a visa immediately available, he is eligible to adjust under 245(a) provided he is admissible. Furthermore, because he is an immediate relative, it does not matter that he has worked without authorization and failed to maintain lawful immigration status prior to being granted TPS.

The Supreme Court Has Ruled That a Grant of TPS Is Not an “Admission” for 245(a) Adjustment

Many TPS beneficiaries initially entered the United States without inspection, which would ordinarily bar a noncitizen from adjustment of status under 245(a). For years, however, appellate courts have held differing opinions on whether a grant of TPS itself should be considered an “inspection and admission or parole” that satisfies the 245(a) requirement. Under the prior law and policy for those who resided in a state under the jurisdiction of the U.S. Court of Appeals for the Sixth Circuit, the U.S. Court of Appeals for the Eighth Circuit, and the U.S. Court of Appeals for the Ninth Circuit, TPS itself was considered an “admission” for purposes of 245(a) adjustment.² The U.S. Court of Appeals for the Third Circuit, the U.S. Court of Appeals for the Fifth Circuit, and the U.S. Court of Appeals for the Eleventh Circuit reached the opposite conclusion.

The U.S. Supreme Court decision in *Sanchez v. Maryokas*, issued on June 7, 2021, resolved the circuit split by holding that a TPS recipient who first entered the United States without inspection is not considered “admitted” by virtue of being granted TPS.³

Jose Santos Sanchez, an applicant for adjustment who entered the United States unlawfully prior to obtaining TPS, was denied adjustment of status after USCIS determined that his subsequent TPS approval was not considered an admission for purposes of 245(a). The Third Circuit affirmed that interpretation and the Supreme Court agreed, reasoning that “lawful status and admission are distinct concepts in immigration law, and establishing the former does not establish the latter.”

According to the Supreme Court, while the statute states that a TPS recipient who applies for permanent residency is treated as having nonimmigrant status, which the Court characterizes as “the status traditionally and generally needed to invoke the LPR process under § 245,” ultimately “that provision does not aid the TPS recipient in meeting § 245’s separate admission requirement.” Adjustment of status requires an admission, defined under INA § 101(a)(13)(A), and the Court interpreted this as requiring a lawful *physical* entry.

The Court was unconvinced by the petitioner’s argument that the grant of nonimmigrant status

² *Flores v. USCIS*, 718 F.3d 548 (6th Cir. 2013); *Ramirez v. Brown*, 852 F.3d 954 (9th Cir. 2017); *Velasquez v. Barr*, No. 19-1148 (8th Cir. 2020).

³ 593 U. S. __ (2021).

requires admission. Although the TPS statute references TPS recipients as being considered nonimmigrants for purposes of 245(a) adjustment, it holds that “the immigration law nowhere states that admission is a prerequisite of nonimmigrant status. So there is no reason to interpret the TPS provision’s conferral of nonimmigrant status as including a conferral of admission.” The opinion notes that “there are immigration categories in which individuals have nonimmigrant status without admission,” and cites U status as one example. See INA § 101(a)(15)(U).

Example: Sami, from El Salvador, is a TPS beneficiary residing in California. Her U.S. citizen son is about to turn 21 and plans to file an I-130 petition for her. Sami first came to the United States without being inspected and admitted or paroled. She resides in the jurisdiction of the Ninth Circuit, where her TPS grant was previously considered an admission that would make her eligible for adjustment of status under 245(a). However, after the Supreme Court’s decision in *Sanchez v. Mayorkas*, she is no longer considered “inspected and admitted” by virtue of her TPS grant and is not eligible for adjustment of status. Because Sami accrued more than 180 days of unlawful presence before acquiring TPS, departing for the consular interview would trigger inadmissibility under INA § 212(a)(9)(B) and require her remaining abroad until the three- or ten-year bar has been satisfied. She would not be eligible for a waiver since her U.S. citizen son is not a qualifying relative.

USCIS Has Rescinded its Adoption of *Matter of Z-R-Z-C-* and Will Now Recognize that a Return After Authorized Travel Abroad Results in an “Inspection and Admission” for 245(a) Adjustment

Background on Prior USCIS Interpretation of Authorized Travel by TPS Beneficiaries

When Congress established TPS in 1990, the statute provided a travel benefit for TPS beneficiaries. INA § 244(f)(3) authorizes “travel abroad with the prior consent” of DHS. The former Immigration and Naturalization Service then issued regulations to provide the mechanism for implementing the statutory TPS travel provision: “...Permission to travel may be granted by the director pursuant to the Service’s advance parole provisions.”⁴

A year after the TPS statute was enacted, Congress passed the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (MTINA), which clarified in section 304(c) that a noncitizen who is authorized “to travel abroad temporarily and who returns to the United States in accordance with such authorization... shall be *inspected and admitted* in the same immigration status the alien had at the time of departure,” as long as the individual is not inadmissible or barred from TPS (emphasis added).

Therefore, for several decades, when TPS beneficiaries returned after authorized travel — typically, with an advance parole document, as provided in the regulations — they were considered “inspected and admitted or paroled.” Regardless of whether the return was

⁴ 8 CFR § 244.15; Temporary Protected Status, 56 Fed. Reg. 23491, 23498 (May 22, 1991); 56 Fed. Reg. 618, 622 (Jan. 7, 1991).

characterized as a “parole” (per agency regulations) or an “admission” (per MTINA), USCIS considered it as satisfying the 245(a) requirement.

However, on Aug. 20, 2020, USCIS [adopted](#) the Administrative Appeals Office (AAO) decision in [Matter of Z-R-Z-C-](#) and changed its interpretation of the legal effect of TPS beneficiaries traveling abroad and returning to the United States with DHS authorization. Beginning on Aug. 20, 2020, USCIS took the position that TPS beneficiaries who returned using a DHS-issued travel document under INA § 244(f)(3) did not satisfy the “inspected and admitted or paroled” eligibility requirement for adjusting status under 245(a). Instead, USCIS cited MTINA to assert that TPS beneficiaries returning from authorized travel were returning with the immigration status of a “TPS beneficiary who entered without inspection.”

In recognition that the *Matter of Z-R-Z-C-* holding was a departure from its past practice and policy on the legal effect of TPS beneficiaries traveling abroad and returning pursuant to TPS travel authorization, USCIS clarified that it would apply *Matter of Z-R-Z-C-* prospectively to TPS beneficiaries who traveled and returned to the United States with a DHS-issued travel document after Aug. 20, 2020. Furthermore, USCIS stated that it would not apply this adopted decision to TPS beneficiaries who had already adjusted status to LPR status or who had a pending application for adjustment of status based on TPS-based, DHS-authorized travel prior to Aug. 20, 2020.

USCIS Issues New Policy and Related Guidance Regarding TPS Beneficiaries and Authorized Travel

On July 1, 2022, USCIS rescinded its designation of *Matter of Z-R-Z-C-* as an Adopted Decision and issued a new [policy](#) on authorized travel for TPS recipients. Starting July 1, 2022, USCIS will no longer use advance parole to authorize travel for TPS recipients using Form I-512T. Instead, it will issue them a new type of travel document called Form I-512T, Authorization for Travel by a Noncitizen to the United States.⁵

TPS recipients who travel and return with DHS authorization on or after July 1, 2022, must be inspected and admitted into TPS pursuant to MTINA, unless they are found ineligible for admission under certain nonwaivable criminal, national security, and related grounds of inadmissibility described in INA § 244(c)(2)(A)(iii).⁶ Moreover, their return will meet the “inspected and admitted” requirement to adjust status under INA § 245, even if they initially entered without inspection before obtaining TPS.⁷

How does the new USCIS policy affect TPS recipients who had already traveled before the July 1, 2022 policy change?

⁵ Note that an initial TPS [applicant](#) with a pending I-821 who has not yet been granted TPS will continue to be issued advance parole, rather than the new I-512T. See USCIS website at: <https://www.uscis.gov/humanitarian/temporary-protected-status>.

⁶ USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5 n.62, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>.

⁷ USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>.

In most cases, USCIS will apply the July 1, 2022, policy retroactively and consider the TPS recipient “admitted,” “even if the policy or practice in place at the time the travel occurred instructed otherwise.”⁸

For TPS recipients residing in the jurisdiction of the Fifth Circuit Court of Appeals, USCIS will treat all past reentry after authorized travel as an “admission” pursuant to a decision in *Duarte v. Mayorkas*, which held that MTINA does not permit TPS beneficiaries who traveled with authorization to be paroled but mandates they be admitted instead. 27 F.4th 1044 (5th Cir. 2022).

For TPS beneficiaries residing in all other circuits, the USCIS officer will first look at whether treating the reentry as an “admission” (as opposed to “parole” or other authorized entry) would affect their ability to adjust. If it does (meaning the individual needs an “admission” to be eligible to adjust), then USCIS will apply a 5-factor retroactivity test to decide on a case-by-case basis whether to apply the new guidance retroactively and deem the prior parole to be an “admission” under MTINA:⁹

- Factor 1: Whether the effect of the TPS-authorized travel has previously been considered;
- Factor 2: Whether the new policy regarding the effect of TPS-authorized travel represents an abrupt departure from well-established practice or merely attempts to clarify an unsettled area of law;
- Factor 3: The extent to which the adjustment of status applicant to whom the new policy would apply relied on the former rule;
- Factor 4: The burden (if any) that retroactive application of the policy would impose on the adjustment of status applicant; and
- Factor 5: The statutory interest in applying the new policy despite the applicant’s reliance on the old policy.

The test allows USCIS to consider any reliance on prior policies and other factors to determine whether retroactive application of the current policy is appropriate or would cause an undue burden for the adjustment applicant.¹⁰ USCIS “expects that ... retroactive application...is appropriate in most adjustment of status applications” and will be “favorable to the applicants.” Practitioners representing TPS clients in this position should consult the revised guidance in the USCIS Policy Manual on applying the five-factor test and consider including a copy of this guidance

⁸ As a threshold matter, in order to be considered for retroactive application of the current guidance, the TPS beneficiary: 1) must have obtained travel authorization on the basis of being a TPS beneficiary; 2) must have been in valid TPS status during his or her travel (i.e. not have had his or her TPS grant withdrawn or the country’s TPS designation expire); 3) must have returned in accordance with the travel authorization; and 4) must have been inspected and paroled or permitted to enter in accordance with the travel authorization. If these requirements are not met, USCIS will instead apply the policy that was in effect at the time the TPS beneficiary departed the United States. USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>.

⁹ USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>; USCIS Policy Alert PA-2022-16, “Temporary Protected Status and Eligibility for Adjustment of Status under Section 245(a) of the Immigration and Nationality Act” (July 1, 2022) at p.15, <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220701-TPSAndAOS.pdf>.

¹⁰ See USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>.

when filing adjustment applications for these clients.¹¹

Example: Luis, from Honduras, came to the United States without inspection in 1997 and has had TPS since April 1999. He lives in California. He is now married to a U.S. citizen and hopes to become an LPR through his spouse. In January 2019, Luis received advance parole to travel to Canada. He returned to the United States in March 2019 and was allowed to enter based on his advance parole document. Since it took place prior to Aug. 20, 2020, his return with DHS authorization means that he has been inspected and admitted or paroled and therefore would be eligible to adjust status under 245(a) as an immediate relative.

Let's change the facts so that Luis traveled with advance parole in 2021. Is he eligible to adjust under 245(a)? Under *Matter of Z-R-Z-C-*, because Luis returned with DHS authorization after Aug. 20, 2020, USCIS would have viewed his return as neither an admission nor parole and he would have been ineligible to adjust status under 245(a). Since he resides outside of the Fifth Circuit, USCIS should first consider whether applying the current policy would make a difference in Luis' eligibility for adjustment. In this case, it would. Without retroactive application of the current policy, Luis would not be considered paroled or admitted and would be ineligible for 245(a) adjustment. Next, USCIS should consider whether Luis has a reliance interest in the prior policy and whether retroactively deeming Luis to be inspected and admitted would negatively affect or otherwise burden him. Nothing in Luis' immigration history would result in any inadmissibility grounds being triggered if he is now determined to have been admitted upon his 2021 return. In fact, for Luis, the most important factor is likely to be that he would be unable to adjust if his reentry is not considered admission. For him, the benefits of an admission clearly outweigh any negatives and USCIS should apply its current policy retroactively to allow him to adjust.

A Recent Settlement With USCIS Will Make it Easier for Certain TPS Recipients to Reopen Prior Removal Orders and Apply for Adjustment

Before Dec. 20, 2019, many USCIS adjudicators viewed TPS beneficiaries with an outstanding removal or deportation order who departed the United States to travel abroad with a DHS-issued travel document as having executed a prior removal order by virtue of the departure. INA § 101(g) states that any noncitizen who is "ordered deported or removed...who has left the United States, shall be considered to have been ordered or removed in pursuance of law..." Language in the instructions for the I-131, Application for Travel Document, as well as language on the I-512 advance parole travel document, warn that travel, even with advance permission, executes a removal order that has not been reopened and administratively closed or terminated. Consequently, USCIS often assumed jurisdiction over a subsequent application for adjustment of status filed by a TPS recipient who had traveled and executed a prior order, not the Executive Office for Immigration Review (EOIR).

Through a [Dec. 20, 2019 Policy Alert](#), USCIS announced a new policy stating that travel by TPS

¹¹ *Id.*

beneficiaries with prior authorization does not execute a removal order.¹² Under this policy, the individuals return in “the exact same immigration status and circumstances” they were in when they departed. “Such travel does not result in the execution of any outstanding removal order to which a TPS beneficiary may be subject. TPS beneficiaries who had outstanding, unexecuted final removal orders at the time of departure, remain TPS beneficiaries who continue to have outstanding, unexecuted final removal orders upon lawful return.”¹³ As a result, USCIS adjudicators have denied countless adjustment applications for TPS beneficiaries on the basis that USCIS does not have jurisdiction over such applications — only EOIR. These returning TPS beneficiaries would not be able to adjust before USCIS unless an immigration judge first reopened and terminated the removal order.

The process for reopening a removal order is complex and subject to time bars, as well as the immigration judge’s discretion,¹⁴ which makes it very difficult for TPS beneficiaries to overcome a prior removal order. The result is that many beneficiaries are left with no forum where they can seek adjustment of status despite being statutorily eligible. Consular processing remains an option for some, however it is more costly, involves traveling abroad for an uncertain period of time and carries the risk of prolonged separation from loved ones if the applicant is unable to overcome an inadmissibility finding.

CLINIC, Democracy Forward, Montagut & Sobral, PC, and Debevoise and Plimpton LLP filed a [lawsuit](#) before the United States District Court for the District of Columbia, challenging this change to longstanding policy on behalf of CARECEN and seven individual TPS beneficiaries. In compliance with a [settlement](#) that was reached on March 21, 2022, DHS announced a new prosecutorial discretion policy under which ICE Office of the Principal Legal Advisor (OPLA) will generally agree to join motions to reopen and dismiss removal proceedings for certain TPS beneficiaries with prior removal orders who traveled on advance parole and are now otherwise eligible for adjustment of status. This prosecutorial discretion policy will remain in effect until at least Jan. 19, 2025.¹⁵

To qualify under the settlement, the individuals must demonstrate that: they are not an enforcement priority; currently have TPS; have a removal, deportation, or exclusion order; have traveled on advance parole since the order was issued; and are otherwise prima facie eligible to file for adjustment of status with USCIS.

¹² See also, USCIS Policy Manual, Vol. 7, Pt. A, Ch. 3.D, <https://www.uscis.gov/policy-manual/volume-7-part-a-chapter-3>.

¹³ [USCIS Policy Alert](#), Effect of Travel Abroad by Temporary Protected Status Beneficiaries with Final Orders of Removal, PA-2019-12 (Dec. 20, 2019). The USCIS Policy Manual also confirms that: “travel with TPS authorization does not execute an outstanding removal order.” USCIS Policy Manual, Vol. 7, Pt. B, Ch. 2.A.5, <https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2>.

¹⁴ In general, an individual who has been ordered removed may file one motion to reopen within 90 days of the date of entry of a final administrative order. See INA § 240(c)(7)(A), (c)(7)(C)(i). The BIA and IJs have *sua sponte* authority to reopen or reconsider their own decisions “at any time,” without regard to the time and number limitations. However this is generally only granted in “exceptional situations.” See 8 CFR §§ 1003.2(a), 1003.23(b)(1).

¹⁵ Note that the USCIS Policy Manual guidance remains unchanged. It is not clear whether the settlement agreement will be extended after Jan. 19, 2025. See USCIS Policy Manual Vol. 7, Pt. A, Ch. 3.

TPS recipients who are eligible are encouraged to file their joint motion to reopen and unopposed motion to dismiss as soon as possible. ICE OPLA has [published notice](#) on its website with instructions on how to submit requests for joint motions to reopen and dismiss under the settlement. There is no fee for this process. A template request for prosecutorial discretion under the settlement is available [here](#) and on the [ICE website](#). USCIS also has information about this on its [website](#).

Example: Rachelle from Haiti was ordered removed in 2008 but never departed. In 2011, she obtained TPS. After obtaining an advance parole document, she traveled to Haiti in 2013 to visit her father who was seriously ill. She is now married to a U.S. citizen and wants to adjust status. How would you advise her?

According to the USCIS Policy Manual, Rachelle’s return with DHS authorization was likely considered a parole for purposes of 245(a) adjustment. Under the current USCIS policy guidance, USCIS would reject jurisdiction over any adjustment application for an individual with an unexecuted prior removal order. However, pursuant to the CARECEN settlement, ICE OPLA should agree to join a motion to reopen and dismiss removal proceedings, as long as Rachelle meets the eligibility requirements described above and submits her request for prosecutorial discretion by Jan. 19, 2025. Once her removal proceedings have been reopened and dismissed, she may then apply for adjustment of status before USCIS.

Practice Tips

1. TPS beneficiaries who initially entered without inspection but travel with advance authorization after July 1, 2022, will be inspected and admitted upon their return to the United States. Because this satisfies the “inspection and admission” requirement of 245(a), if these clients have an immigrant visa available, are admissible (or eligible to waive any applicable inadmissibility grounds), are not barred from adjusting under INA § 245(c), and merit a favorable exercise of discretion, they should be eligible to adjust status.
2. TPS beneficiaries may continue to apply for USCIS consent to travel abroad by filing Form I-131 to request travel authorization. USCIS will issue a new type of travel document, Form I-512T. TPS recipients with pending I-131s as of July 1, 2022, do not need to file a new application. Finally, TPS beneficiaries who already have or are issued a valid advance parole document may continue to use that document to travel through its expiration date and should be considered inspected and admitted upon their authorized reentry.
3. TPS beneficiaries interested in applying for travel authorization should consider the following: In order to ensure that the TPS recipient is permitted to return after authorized travel, he or she must remain in valid TPS upon seeking reentry. The possibility that DHS

will be allowed to implement the termination of TPS designations for several countries still looms.¹⁶ There are also lengthy processing times for advance parole requests. USCIS estimates current processing times for advance parole applications to be between 9 and 17 months, depending on the Service Center. TPS beneficiaries should comply with the terms of their travel authorization to ensure that their reentry will count as an inspection and admission.

4. Before they travel abroad with advance authorization, screen TPS recipients for potential inadmissibility issues. In particular, look out for prior removal orders and other immigration violations. Upon return, TPS recipients will be “seeking admission,” which could trigger inadmissibility grounds that were not applicable before their departure. Note that *Matter of Arrabally and Yerrabally* still applies, and that travel with prior authorization is not a departure for purposes of INA § 212(a)(9)(B)(i)(II).

Applicants for adjustment of status must be admissible or eligible for a waiver. Review the grounds of inadmissibility that apply to TPS before applying for adjustment of status based on the new policy. While your client may now be “inspected and admitted” after authorized travel, consider whether the admission creates any inadmissibility issues and whether a waiver is available.

5. Whether the current policy on “inspection and admission” applies retroactively will be made on a case-by-case basis. Assess whether it is preferable for your client’s past travel and return to be considered an admission. For example, some employment-based adjustment applicants will need to show they are present “pursuant to a lawful admission” to rely on INA § 245(k) to overcome the bars to adjustment under 245(c)(2), (7) and (8). An “admission” after travel could trigger inadmissibility under 212(a)(9)(A)(ii) or 212(a)(6)(B) for some with prior removal orders. If it is preferable for your client to be considered admitted after prior travel, explain those factors in a cover letter when applying for adjustment of status. Practitioners representing TPS clients in this posture should consult the revised guidance in the [USCIS Policy Manual](#) on applying the five-factor test and consider including a copy of this guidance when filing adjustment applications for these clients or seeking to reopen a previously denied adjustment.
6. The Dec. 2019 Policy Alert has not been rescinded. According to current USCIS Policy,

¹⁶ Due to pending litigation challenging TPS terminations for six countries, TPS and work authorization for qualifying TPS beneficiaries from El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan has been automatically extended through December 31, 2022. See September 10, 2021 *Federal Register Notice*, available at: <https://www.federalregister.gov/documents/2021/09/10/2021-19617/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-el>. Two of these countries have subsequently received new TPS designations: Sudan was re-designated through Oct. 19, 2023 and Haiti was re-designated through Feb. 3, 2023. See uscis.gov/humanitarian/temporary-protected-status. Sudanese and Haitian TPS beneficiaries who are eligible under the new designations should register given the uncertain outcome of the legal challenges to the terminations and whether there will be subsequent auto-extensions.

travel with advance authorization does not execute a prior removal order. However, under the *CARECEN v. Jaddou* settlement agreement, some clients with prior unexecuted removal orders who are prima facie eligible for adjustment of status may be able to request a joint motion to reopen and unopposed motion to dismiss removal proceedings, despite the strict time bars that ordinarily apply. Once the removal order has been reopened and removal proceedings have been dismissed, the TPS recipient would be eligible to seek adjustment of status before USCIS, rather than EOIR. Since it is unclear whether the settlement agreement will continue beyond the 2025 expiration date, clients should be encouraged to begin this process as soon as possible. Review USCIS and ICE guidance for more information. CLINIC affiliates may seek assistance through our [“Ask the Experts”](#) service. For additional resources and information on developments related to the settlement, consult the [Democracy Forward](#) and [CARECEN](#) websites.

7. After the Supreme Court’s decision in *Sanchez v. Mayorkas*, USCIS no longer considers TPS beneficiaries residing in the Sixth, Eighth or Ninth Circuits who initially entered without inspection to be “admitted” for purposes of 245(a) based solely on their grant of TPS. CLINIC does not believe that LPRs who already adjusted under the prior law in the Sixth, Eighth or Ninth Circuits are at risk of having their LPR status rescinded based on the Supreme Court decision, but DHS has not issued any guidance or clarification on this issue.

Remember that the *Sanchez* decision does not impact the ability of TPS beneficiaries who entered with inspection to adjust under 245(a), as long as they are not barred under 245(c). Also, do not forget to screen clients who did enter without inspection or preference relatives who are barred from adjusting under 245(c) to determine whether they might qualify to adjust status under INA § 245(i).