

JONI K. ERNST
IOWA

WASHINGTON, DC OFFICE
111 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510
PHONE 202-224-3294
FAX 202-224-9369
WWW.ERNST.SENATE.GOV

United States Senate

October 19, 2018

COMMITTEES
ARMED SERVICES
AGRICULTURE, NUTRITION
AND FORESTRY
ENVIRONMENT
AND PUBLIC WORKS
SMALL BUSINESS
AND ENTREPRENEURSHIP

The Honorable Kirstjen M. Nielsen
Secretary of Homeland Security
Washington, D.C. 20528

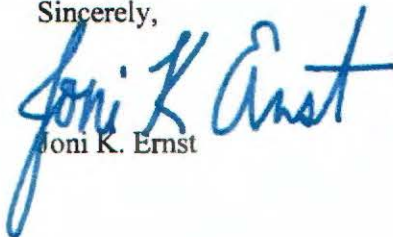
Sent via e-mail to: DHSSecretary@hq.dhs.gov

Dear Secretary Nielsen:

Enclosed are a number of documents and points of inquiry from a group of my constituents concerned with the decision to terminate the Temporary Protected Status for approximately 200,000 Salvadorans living in the United States. I ask that you review these documents and provide a response as expeditiously as possible.

Thank you for your time and consideration.

Sincerely,


Joni K. Ernst

SCANNED/RECEIVED
BY EXEC SEC
2018 OCT 19 PM 4:17

DES MOINES OFFICE
733 FEDERAL BUILDING
210 WALNUT STREET
DES MOINES, IA 50309
PHONE 515-284-4574
FAX 515-284-4937

CEDAR RAPIDS OFFICE
111 SEVENTH AVENUE SE
SUITE 480
CEDAR RAPIDS, IA 52401
PHONE 319-385-4504
FAX 319-385-4683

DAVENPORT OFFICE
201 WEST SECOND STREET
SUITE 806
DAVENPORT, IA 52801
PHONE 563-322-0677
FAX 563-322-0854

SIOUX CITY OFFICE
194 FEDERAL BUILDING
320 SIXTH STREET
SIOUX CITY, IA 51101
PHONE 712-252-1550
FAX 712-252-1838

COUNCIL BLUFFS OFFICE
221 FEDERAL BUILDING
8 SOUTH SIXTH STREET
COUNCIL BLUFFS, IA 51501
PHONE 712-352-1167
FAX 712-352-0087

August 27, 2018

The Honorable Kirstjen Nielsen
Secretary
U. S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Nielsen,

Our small group of civic-minded United States citizens living in Iowa was initially saddened and deeply upset by your decision not to renew Temporary Protected Status for approximately 200,000 law abiding Salvadorans living in the United States as of September 2019. We learned about this decision when we were building homes in El Salvador this past January. Each one of us has visited El Salvador multiple times in recent years to help meet the extreme need for decent housing there.

Upon returning to the U.S. in January, we began researching conditions in El Salvador from sources that went beyond our own observations—personal accounts, U.S. Department of State reports, USAID, United Nations reports, The World Health Organization, news reports, Embassy reports, and many more. This research, coupled with our personal experiences, makes it difficult to understand the logic behind your decision. What we know is in direct conflict with your decision to terminate TPS for Salvadorans living in the United States.

We are left with many questions, including:

- Why rescind TPS for 200,000 Salvadorans now after nearly 20 years when conditions on the ground have not materially improved?
- What criteria and data was used to determine that the country of El Salvador can now absorb 200,000 + returning nationals and their 192,000 citizen children?
- DHS reports indicate that you met with Salvadoran leadership on this issue of TPS termination. When and where did this meeting happen and what did the Salvadoran President advise regarding this decision?
- On October 30, 2017 Senator Grassley wrote to then Secretary Elaine Duke asking her to *review and report* on several countries with TPS protection, including El Salvador. By early December, you were sworn in as the new

Secretary of DHS. In a matter of a few days DHS decided to terminate the protection for El Salvador. What conditions changed in El Salvador that you moved from *review and report* to *termination of TPS protection*?

- Are you aware of the unprecedented gang danger our citizen children will be exposed to upon arrival in El Salvador? If so, how will the United States protect our very young and very vulnerable citizens?
- Who will be responsible for the U.S.-citizen children of TPS recipients who are left behind when the adult caregivers and breadwinners are forced to return to El Salvador?
- What will be the economic impact on U.S. businesses when they lose these workers? How will their absence impact state and federal tax revenues? We know that Iowa is looking to fill 60,000 job openings now.
- Aside from lost taxes and unfilled jobs, what other costs will U.S. taxpayers incur to deport 200,000 Salvadorans? Will this require hiring and training more ICE agents or judges? Building more prisons? Hiring planes or buses to transport the Salvadorans back to their country of origin?
- If housing has improved in El Salvador since 2001, where will these 200,000+ people reside when they return? Right now, 944,000 families make up the housing deficit in El Salvador.
- Where will these returning nationals and their citizen children be employed in El Salvador?
- Why did you ignore scores of warnings from career diplomats, Central American leadership, your own DHS intelligence analysts and others that termination of TPS for El Salvador would be harmful to the United States? What was your response to these warnings?
- Why did you ignore scores of recommendations from Congressional members both Democrat and Republican, other state and local leadership across the nation, industry leaders and many others NOT to terminate TPS for El Salvador? How did you respond to their recommendations?
- How is ending TPS for El Salvadorans consistent with the democratic principles and human equality on which our U.S. constitution is based?
- And, most importantly, perhaps, on a human level, Madame Secretary, what PURPOSE does this serve? We know that 88% of these individuals are in the US work force. They have done everything our government has asked of them for the last 20 years. They have been regularly vetted, they have paid the fees required, they own homes and small businesses, pay taxes, they are NOT on welfare. Again, we ask, what PURPOSE does this serve?

We respectfully request that you fully address and reply to these questions and other information detailed in the attached handouts.

We also respectfully request that you carefully reconsider the powerful evidence we have provided. We ask that you rescind your order to terminate TPS for El Salvador so that Congress can work on a just and permanent solution to granting permanent residency and citizenship to these hardworking and very deserving people.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

CC: Senator Charles Grassley
Senator Joni Ernst
Congressman Dave Loebsack
Congressman David Young

DHS TERMINATION OF TPS & OPPOSING FACTS

Submitted: August 27, 2018

1. The decision to terminate TPS for El Salvador was made after a review of the disaster-related conditions upon which the country's original designation was based and an assessment of whether those originating conditions continue to exist as required by statute. Based on careful consideration of available information, including recommendations received as part of an inter-agency consultation process, the Secretary determined that the original conditions caused by the 2001 earthquakes no longer exist. Thus, under the applicable statute, the current TPS designation must be terminated. (DHS)

While El Salvador is recognized as being a middle-income country, it currently faces a number of economic challenges. The country's economy has fared poorly since the outset of the global recession in 2009 when gross domestic product (GDP) contracted. Subsequent recovery has been weak with GDP growth averaging 2 per cent between 2010 and 2014, leading the Government to seek support from the International Monetary Fund, the World Bank and the Inter-American Development Bank.¹ Since 2015, GDP growth has increased marginally, but economic progress has been threatened by severe drought, a fungal attack on coffee harvests and declining levels of tourism due to concerns about security and the outbreak of the Zika virus. There is also a high level of continuing inequality within the country, with 31.8 per cent of the population classified as living in poverty despite the country having one of the largest economies in the Central American region. (UN Report HRC/33/46/Add 1)

2. The Department of Homeland Security has conducted extensive outreach to Salvadoran communities throughout the country. This includes, but is not limited to, community forums on TPS, panel discussions with Salvadoran community organizers, stakeholder teleconferences, regular meetings with TPS beneficiaries, news releases to the Salvadoran community, meetings with Salvadoran government officials, meetings at local churches, and listening sessions. (DHS)

There is no documentation of any of these meetings taking place and there have been no minutes to include the responses from all of these meetings.

3. The Secretary met recently with the El Salvadorian Foreign Minister and Ambassador to the United States, and spoke with President Sánchez Cerén. Following the 2001 earthquake, El Salvador received a significant amount of international aid to assist in its recovery efforts, including millions of dollars dedicated to emergency and long-term assistance. Many reconstruction projects have now been completed. (DHS)

Autonomous government institutions initiated several investigations into corruption. As of August 23, the Probity Section of the Supreme Court was investigating 517 current and former public officials for evidence of illicit enrichment and submitted 15 cases to the Attorney General's Office for possible criminal indictment. The increase from 72 investigations initiated in 2016 was due in part to a staffing surge. As of August 30, the Attorney General's Office reported that investigations were in progress in 130 cases related to corruption, with 11 convictions during the year. (US State Dept.)

On June 27, Attorney General Douglas Melendez confirmed that he was conducting an investigation into FMLN leader and Vice Minister for Investment and Funding for Development Jose Luis Merino. Merino's position as vice minister granted him immunity from prosecution. (US State Dept.)

On February 4, the attorney general indicted 17 individuals in the corruption case against former president Antonio Saca (2004-09). A court froze additional assets belonging to suspects in the Saca case, including 50 properties and 60 vehicles. On August 21, the attorney general further charged Saca with bribery. On November 28, former president Mauricio Funes and his son, Diego Funes Canas, were found guilty of illicit enrichment. Funes was ordered to pay restitution and was found ineligible to hold public office for a 10-year period. Funes and his children were granted political asylum in Nicaragua in September 2016. (US State Dept.)

On January 13, the First Criminal Chamber of El Salvador revoked bail for former attorney general Luis Martinez, businessman Enrique Rais, and five other suspects facing trial on corruption-related charges including fraud and bribery. On October 4, Luis Martinez was indicted on additional charges of cover-up and procedural fraud. Police

received an order to recapture Enrique Rajs and five associates, all of whom disappeared after a court hearing on January 9. (US State Dept.)

4. *Schools and hospitals damaged by the earthquakes have been reconstructed and repaired, homes have been rebuilt.*
(DHS)

The public sector has 44 hospitals around the country, which have a total of 6,516 beds; the private sector has 39 hospitals with 425 beds. The public sector has 883 outpatient clinics.

One effect of the lack of fiscal resources on people's vulnerability to servitude in El Salvador is the difficulties the State faces in tackling gaps in the country's education system. The Government recognizes the importance of education and its pivotal role in the future development of the country. Information about a range of programs and policies in place to give effect to the right to education in El Salvador, such as the five year plan on education. However, interlocutors consistently described significant gaps in the education system. They described how in many regions, particularly those in rural areas and those that are most affected by gang violence, secondary education facilities are not widely available, which affects a large number of adolescents. Many stakeholders described difficulties accessing schools in territories controlled by rival gangs, resulting in adolescents choosing to drop out or being compelled by their parents to do so. For example, when the Salvadoran citizens living in Usulután, parents described their concern that their children would not be able to access schools when they got older. (UN Report HRC/33/46/Add 1)

5. *Money has been provided for water and sanitation and to repair earthquake damaged roads and other infrastructure.*
(DHS)

Tropical Depression 12-E, a storm that dropped more than five feet of water over ten days in October 2011, causing massive flooding and mud slides and forcing 60,000 people into shelters.

Perhaps the nondescript name did little to draw international attention to the crisis, but the economic damage wrought by the tropical deluge is worthy of an

international response. Although fewer lives were lost (34 versus 10,000 people in Hurricane Mitch) as a result of the early warning system established post-Mitch, authorities estimate over \$840 million in economic loss, affecting 181 municipalities in all 14 departments in the country. The nation's infrastructure was left in ruins; 40 percent of the road network, 23 bridges, 500 schools, and hundreds of houses were destroyed. The most affected sector was agriculture, which constitutes 11 percent of GDP and employs 30 percent of the population. Over 270,000 producers (mostly small-scale farmers) suffered damage to their grains and cereal crops – staples of the Salvadoran diet, with immediate and long-term food insecurity likely. (Huffpost Jan 2012)

Respectfully submitted by these citizens of Iowa,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Regarding the Termination of Temporary Protected Status
for Salvadorans Living in the U. S.
Additional Source List, August 27, 2018**

1. Video captured January 2018 featuring Governor Martinez, Morazán Department, speaking to our group, January 2018:

<https://www.dropbox.com/s/ydsdxogmfguicr6/ES%3ATPS.m4v?dl=0>

2. United Nations report on the Human Right to Water in El Salvador, May 2016

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/170/66/PDF/G1617066.pdf?OpenElement>

"Generally speaking, at times of water crisis, such as that in El Salvador during the visit, women and girls, who take on the task of ensuring their families have access to water, are those most affected. During the visit, the Special Rapporteur was able to see how not only women, but girls of some 10 years of age carried home containers holding around 10 litres of water several times a day."

"As of January 2016, it is estimated that, in El Salvador, 825,000 persons (approximately 20 per cent of the population) were living in a situation of food insecurity on account of the drought."

UNITED NATIONS/HUMAN RIGHTS; Office of the High Commissioner - May 2016

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19928&LangID=E>

3. United Nations report on the Human Rights of Internally Displaced Persons in El Salvador, 18 June–6 July 2018

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/116/64/PDF/G1811664.pdf?>

"El Salvador is experiencing an epidemic of generalized, gang-related violence, with homicide levels above most conflict-affected countries. As a consequence of this extremely unfortunate situation, there are extremely high levels of internal displacement."

"Street gangs pose a constant threat to young women and girls, who are particularly vulnerable to threats, intimidation and violence, including rape. Sexual violence by gangs is commonplace, and high levels of femicide have been recorded. The general risk to girls from the gangs leads many families to leave."

"Young people cannot lead normal lives in some gang-controlled neighborhoods and it is virtually impossible to avoid exposure to gangs."

"Data from the Ministry of Education showed that approximately 3,000 students (majority girls) had dropped out of public schools in 2015 explicitly because of gang threats."

4. United Nations Convention on the Rights of the Child, El Salvador, Feb 12, 2010; Prevention of the Sale of Children, child Prostitution and child pornography

"The committee is concerned, however, that preventive efforts do not cover sufficiently large groups of vulnerable children in the State party, such as children living in poverty, indigenous children, children living in difficult family situations and children left behind by their migrating parents."

5. OXFAM International

<https://www.oxfam.org/en/el-salvador/building-resilience-drought-el-salvador>

"Right now, 3.5 million people in Guatemala, Nicaragua, Honduras, and El Salvador do not have enough to eat, after drought has devastated several cycles of crops. "

6. The Atlantic Magazine, March 2018

<https://www.theatlantic.com/international/archive/2018/03/el-salvador-women-gangs-ms-13-trump-violence/554804/>

"While a majority of El Salvador's homicide victims are young men from poor urban areas, the gangs' practice of explicitly targeting girls for sexual violence or coerced relationships is well known. Since 2000, the homicide rate for young women in El Salvador has also increased sharply, according to the latest data from the World Health Organization. To refuse the gangs' demands can mean death for girls and their families."

7. Habitat for Humanity El Salvador's FY 2017 Annual Report/Regional Study of the Situation of Social Housing in Central America, Habitat for Humanity International - INCAE 2016

"1.3 million families live in inadequate conditions."

"8 out of 10 families do not have an adequate place to live."

8. Multi-Purpose Housing Survey, Department of Statistics and Censuses, DIGESTYC, 2016

"34% of Salvadoran families live in multidimensional poverty."

Respectfully submitted by these citizens of Iowa,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



**U.S. Citizenship
and Immigration
Services**

November 29, 2018

The Honorable Joni K. Ernst
United States Senate
Washington, DC 20515

Dear Senator Ernst:

Thank you for your October 19, 2018 letter to the Department of Homeland Security (DHS) and the letters forwarded from your constituents. Secretary Nielsen asked that I respond on her behalf.

I appreciate your interest in the Temporary Protected Status (TPS) designation for El Salvador. The Secretary's authority to designate a country for TPS and to extend or terminate a country's existing designation is based upon specific statutory criteria set by Congress. *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.

The Secretary takes TPS decisions very seriously, and she makes every decision in full compliance with the law. Prior to the current expiration date for an existing TPS designation, the Secretary of Homeland Security reviews conditions in the foreign country and, after consultation with other appropriate federal agencies, determines whether the statutory conditions for TPS continue to be met. Under the INA, if the Secretary determines that the conditions for designation continue to be met with respect to a given country, the Secretary extends the designation. But if the Secretary determines that the conditions for designation are no longer met with respect to that country, she is required by statute to terminate the designation.

TPS was designed by Congress to be temporary in nature. In your constituents' letters, they raise concerns with the termination of the TPS designation for El Salvador. Please note that on October 3, 2018, in *Ramos, et al v. Nielsen, et al.*, the U.S. District Court for the Northern District of California enjoined DHS from implementing and enforcing the decisions to terminate TPS for El Salvador, Sudan, Nicaragua, and Haiti, pending further resolution of the case. On October 31, 2018, DHS published a Federal Register Notice (FRN) announcing that the TPS designations of these countries remain in effect and describing DHS' procedures for complying with the Court's Order regarding the continuation of the validity of documentation showing lawful status and employment authorization for eligible TPS beneficiaries. *See* 83 FR 54764. Additional information regarding USCIS' compliance with the Court's Order is available on the TPS

The Honorable Joni K. Ernst
Page 2

webpages, including the page for El Salvador, at <https://www.uscis.gov/humanitarian/temporary-protected-status>. Because the TPS determination for El Salvador is the subject of ongoing litigation, USCIS is unable to comment further.

Thank you again for your letter and interest in this important issue. 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 "LFC", with a long horizontal stroke extending to the right.

L. Francis Cissna
Director