



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

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 28125041

Date: OCT. 4, 2023

Appeal of Nebraska Service Center Decision

Form I-821, Application for Temporary Protected Status

The Applicant seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254a, pursuant to the designation of Ukraine for such status.

The Director of the Nebraska Service Center denied the TPS request concluding that the Applicant did not establish, as required, that he was either a national of Ukraine or a person having no nationality who last habitually resided in Ukraine. On appeal, the Applicant confirms that he was born in Belarus, but explains that in 2002 he resettled in Ukraine and was subsequently granted lawful permanent status in Ukraine, where he has been living with his spouse and child prior to arriving in the United States on April 11, 2022.

The Applicant bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

On April 19, 2022, the Secretary of Homeland Security designated Ukraine for TPS. This designation allows eligible Ukrainian nationals¹ (and individuals having no nationality who last habitually resided in Ukraine) who have continuously resided in the United States since April 11, 2022, and who have been continuously physically present in the United States since April 19, 2022, to apply for TPS. *See Designation of Ukraine for Temporary Protected Status*, 87 Fed. Reg. 23211 (April 19, 2022).

Acceptable evidence of nationality, in descending order of preference, may consist of a passport, a birth certificate accompanied by photo identification, or any national identity document from the applicant's country of origin bearing a photo, fingerprint, or both. 8 C.F.R. § 244.9(a).

The record reflects that the Applicant was born in Belarus, and that he has a valid passport issued to him by that country's government in 2016. The record further shows that the Applicant obtained multiple entry visas from various countries as a citizen of Belarus, including a U.S. nonimmigrant visitor (B1/B2) visa in April 2022. We acknowledge the Applicant's claim that he has been residing

¹ The term "national" for TPS purposes means "a person owing permanent allegiance to a state." Section 101(a)(21) of the Act, 8 U.S.C. § 1101(a)(21); 8 C.F.R. § 244.2(a).

in Ukraine with his spouse and child as a lawful permanent resident before arriving in the United States; however, to be eligible for TPS under the Ukrainian designation the Applicant must establish, as a threshold requirement that he is (1) a national of Ukraine or (2) a person with no nationality who last resided in Ukraine.

The Applicant has not demonstrated that he falls within either category. As stated, the record shows, and the Applicant confirms that he is a national and citizen of Belarus who has been granted permission to permanently reside in Ukraine. As the Applicant does not submit evidence of Ukrainian nationality, such as an Ukrainian passport, certificate of naturalization, or a similar document, we must conclude that he has not met his burden of proof to establish eligibility for TPS under the Ukrainian designation.

The Applicant therefore has not overcome the basis for the Director's adverse decision and his TPS request remains denied.

ORDER: The appeal is dismissed.