

# National Foundation for American Policy

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## **New Research: Trump Administration’s Decision to Terminate TPS for Haiti Likely Unlawful**

### **Court Decision on Venezuela Helps Case for Haitians**

**Arlington, Va.** – Haitians have a strong case to block the Trump administration’s partial vacatur of former Homeland Security Secretary Alejandro Mayorkas’s decision to extend Temporary Protected Status for Haitians to February 3, 2026, according to a National Foundation for American Policy [analysis](#) reviewing court opinions, Federal Register notices and economic data. The National Foundation for American Policy is a nonpartisan public policy research organization based in Arlington, Virginia.

The study “An Analysis of the DHS Decision on TPS for Haiti,” can be found at <https://nfap.com/>.

On March 31, 2025, U.S. District Judge Edward M. Chen blocked Homeland Security Secretary Kristi Noem’s action vacating the Mayorkas extension of TPS for Venezuelans. The judge cited three grounds on which the plaintiffs were likely to prevail that also apply to the DHS decision for a partial vacatur of TPS for Haiti.

Judge Chen ruled that plaintiffs were likely to succeed in their argument that Secretary Noem lacked the authority to vacate Mayorkas’ extension of TPS for Venezuelans. He also wrote that plaintiffs were likely to prevail on two other grounds: The Mayorkas extension of TPS for Venezuelans was not “novel,” and “the Secretary’s decisions to vacate and terminate TPS for Venezuelans are unconstitutional because they were motivated at least in part by animus based on race, ethnicity or national origin.” The judge cited statements by Noem and Donald Trump. The Trump administration has asked the U.S. Supreme Court to block or overturn Judge Chen’s opinion on TPS for Venezuela.

During the 2024 presidential election campaign, Trump and his running mate accused Haitians of eating people’s pets in Springfield, Ohio. Trump promised to end TPS for Haitians, remove them from Springfield and “bring (the migrants) back to their country.”

Among the findings in the NFAP analysis:

- The Mayorkas extension of TPS for Haitians was lawful, and Noem lacked the authority to vacate or partially vacate the Mayorkas extension.
- The Trump administration likely violated the Administrative Procedure Act by failing to conduct a serious analysis of the economic, public health and human rights conditions in Haiti when partially vacating Secretary Mayorkas’s decision on June 4, 2024, to extend TPS for Haitians. While the Mayorkas Federal Register notice in June 2024 cited approximately 100 sources on conditions in Haiti, the Noem notice in February 2025 used only one footnote to address conditions in Haiti, and even then, it was only to speculate that a small UN security force might improve conditions in the country. A human rights

report published contemporaneously with the Federal Register notice concluded the UN force did not improve conditions in Haiti.

- Amy Pope, director general of the International Organization for Migration (IOM), said at a UN briefing on April 16, 2025, “The situation has become much, much worse in recent months.” She estimates that about one million people are displaced in Port-au-Prince. “Almost nothing in the way of protection, particularly for women and girls.” According to Pope, “The capital city of Haiti, Port-au-Prince, is 85% occupied by gangs. It is impossible for people to go in and out of the capital city by road. . . . The safety is so far from being assured it’s just not safe.”
- The Trump administration has designated the Viv Ansanm gang alliance a ‘transnational terrorist group.’ Gran Grif, also designated, was responsible for a massacre of more than 100 people in October 2024.
- According to the World Bank, Haiti’s economic conditions remain poor: “Amid the lingering crisis, high vulnerability to natural hazards, coupled with violent gangs vying to gain control over business districts, the economy contracted for five consecutive years . . . GDP [Gross Domestic Product] is estimated to have contracted for a sixth year by 4.2% in 2024 behind the backdrop of gang violence.”
- The National Foundation for American Policy examined several indicators and found no evidence that allowing Haitians to remain in the United States in Temporary Protected Status would be “contrary to the national interest of the United States,” as contended by Secretary Noem.
- After the June 4, 2024, extension of TPS for Haitians, illegal entry at the Southwest border remained extremely low for Haitians, contradicting Noem’s implication in a Federal Register notice that ending TPS for Haitians was needed to prevent Temporary Protected Status from acting as a pull factor for illegal immigration. In June 2024, the Border Patrol apprehended only 30 Haitians at the Southwest border. That was followed by 64 Border Patrol encounters of Haitians in July 2024, 46 in August, 31 in September, 53 in October, 35 in November and 31 encounters in December 2024. In February 2025, the Border Patrol apprehended only two Haitians at the Southwest border and three in March 2025.
- Haitians experience strong earnings growth, indicating they integrate and even thrive in the United States, particularly as their income growth exceeds that of U.S.-born workers. On average, real earnings for Haitians arriving between 1985 and 2009 increased by 46% in the 10 years after arriving in America compared to 25% for U.S.-born workers during the same decade. Real earnings for Haitians who arrived between 1985 and 1989 increased by 75% in the 10 years after arrival.
- Haitians have extremely low rates of incarceration (in jail or prisons), approximately half the rate of the U.S.-born: 1.2% for Haitian males aged 18 to 50 compared to 2.3% for U.S.-born males in the same age range.
- Over 90% of Haitians speak English within a year of arriving in the United States, and within a decade, nearly all Haitians speak English. Among Haitians who arrived in America between 2005 and 2009, 98.6% spoke English 10 years later.
- Haitian welfare use in the U.S. is low. Only 1% of Haitians who entered the United States between 1985 and 2009 used public assistance income 10 years after entry compared to 1.7% of U.S.-born.

- Among Haitians who entered the U.S. between 1985 and 2009, 84.7% aged 21 to 54 were in the U.S. labor force 10 years after entry to America.

On average, Haitians significantly improve their educational attainment with time spent in America. Haitians who entered the U.S. between 1985 and 2009 increased their attainment of bachelor's degrees, rising from 8.6% the year after arrival to 15.7% 10 years later.

**About the National Foundation for American Policy**

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) nonprofit, nonpartisan public policy research organization based in Arlington, Virginia focusing on trade, immigration and related issues. The Advisory Board members include Columbia University economist Jagdish Bhagwati, Ohio University economist Richard Vedder, Cornell Law School professor Stephen W. Yale-Loehr and former INS Commissioner James W. Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post* and other major media outlets. The organization's reports can be found at [www.nfap.com](http://www.nfap.com). X.com: [@NFAPResearch](https://twitter.com/NFAPResearch)

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