



MPP Preliminary Injunction 2020: What it Means for Asylum-Seekers Waiting in Mexico

Photo: CNS/Henry Romero, Reuters

What is Migrant Protection Protocol (MPP)?

On January 25th, 2019, the Department of Homeland Security (DHS) issued the [Migrant Protection Protocols](#),¹ which is referred to by advocates as the “Remain in Mexico” policy. The new policy outlined instances where the U.S. government would return certain asylum-seekers to Mexico to wait during the duration of their pending cases in the U.S. immigration court system. Since MPP began, [around 60,000 immigrants have been forced to wait](#)² for court hearings. To learn more about the Remain in Mexico, [read our backgrounder](#).³

What does the Ninth Circuit’s February 28th preliminary injunction mean for MPP?

On February 28, 2020, the United States Court of Appeals for the Ninth Circuit handed down a decision in the case of [Innovation Law Lab v. Wolf](#).⁴ In their decision, the Ninth Circuit held that the plaintiffs were likely to succeed on their contention that MPP was invalid in its entirety due to inconsistency with the Immigration and Nationality Act, as well as the United States’ international obligation to avoid refoulement.⁵ Because of this, they re-instated an earlier preliminary injunction which temporarily halted the MPP program in its entirety.

Who does the preliminary injunction effect?

As of right now, we are unsure who will be allowed to wait for their asylum proceeding in the United States as the Trump Administration has appealed the February 28th preliminary injunction.

What happened with the Trump Administration’s appeal efforts?

Several hours after the Court’s decision, on February 28th, the Administration requested an emergency stay of the order, to keep MPP in place while it seeks review from the Supreme Court.⁶

On March 12, 2020, the Supreme Court granted the stay, deciding that the Administration will be able to continue implementing the policy along the entire southern border.⁷ However, the Supreme Court has yet to rule on the preliminary injunction and the legality of the policy itself. Should the justices deny review of the injunction, the stay would be automatically terminated, while a decision to grant review would terminate the stay upon their final judgment.

Where does the Catholic Church stand on MPP?

The Catholic Church recognizes both the right of the people to migrate, as well as the sovereign right of nations to protect their borders. However, Catholic service providers witness firsthand the vulnerability of those presenting themselves at the border to seek asylum. The Church continues to advocate for asylum seekers, offer care and service to them and offer partnership with the U.S. government in assisting asylum seekers, and welcomes the Ninth Circuit's decision to ensure due process for those on the U.S./Mexico border.

Endnotes

¹ MIGRANT PROTECTION PROTOCOLS, <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols> (last visited Feb. 28, 2020).

² Arelis R. Hernandez, Kevin Sieff, *Trump's 'Remain in Mexico' Program Dwindles As More Immigrants Are Flown to Guatemala Or Are Quickly Deported*, THE WASHINGTON POST (Feb. 27, 2020), https://www.washingtonpost.com/immigration/remain-in-mexico-deportation-asylum-guatemala/2020/02/20/9c29f53e-4eb7-11ea-9b5c-eac5b16dafa_story.html.

³ PRELIMINARY INJUNCTION ON THE REMAIN IN MEXICO POLICY, https://justiceforimmigrants.org/wp-content/uploads/2019/04/PI_remain-in-mexico.pdf (last visited February 28, 2020).

⁴ *Innovation Law Lab v. Wolf*, No. 19-15716 (9th Cir. 2020), opinion available at <https://www.dropbox.com/s/9xqw6av202ng1c0/ILL-CA9.pdf?dl=0>.

⁵ Refoulement is the practice of forcibly returning refugees or asylum seekers to a country where they are liable to be subjected to violence or persecution. It is illegal, under the United States' international legal obligations, for the United States to send back people seeking protection to such places.

⁶ Nicole Narea, *The Fate of Trumps Policy of Sending Migrants Back to Mexico Now Rests with the Supreme Court*, VOX (Mar. 5, 2020), <https://www.vox.com/2020/2/28/20907053/remain-in-mexico-mpp-ninth-circuit-opinion>.

⁷ Robert Barnes, *Supreme Court Says Trump Administration May Continue "Remain in Mexico" Policy for Asylum Seekers*, THE WASHINGTON POST (Mar. 12, 2020), https://www.washingtonpost.com/politics/courts_law/supreme-court-trump-remain-in-mexico/2020/03/11/7abd4b9c-62d7-11ea-acca-80c22bbee96f_story.html.