

Can I File Motion to Reopen and Stay of Removal?

Information For Iraqi Nationals Detained By ICE

Table of Contents

1. Introduction/ Can I Use the Sample Motion to Reopen my case and seek a Stay of Removal?
2. Instructions on using the Sample Motion
3. Template Motion to Reopen Based on Changed Country Conditions
4. Template Emergency Motion for Stay of Removal

I. INTRODUCTION/Can I use this motion template?

We **strongly** advise you to exhaust all options to be able to work with an immigration attorney. If you do not have an immigration attorney, you can look for legal help here: <https://www.immigrationadvocates.org/legaldirectory/>. If you are in Michigan, you can email hamama@aclumich.org to request a list of Michigan immigration attorneys.

If you are a Hamama class member and have received a 90-day notice, you may be able to file a Motion to Reopen and a Stay of Removal. This packet includes a sample motion and instructions filing these documents. Before using the motion, please determine if you are eligible to use the motion by answering these questions.

1. Are you an Iraqi national who had a final order of removal between March 1, 2017, and June 24, 2017 (note: your final order could have been issued before March 2017; what matters is that it was still active between March 1, 2017, and June 24, 2017)?
 - a. YES
 - b. NO – You are not a Hamama class member and this sample motion does not apply to you.
2. Have you received a 90-day notice of an Order of Removal?
 - a. YES
 - b. NO – While this sample motion is designed for people with 90-day notices, you can use this sample to get ahead of a potential future 90-day notice.
3. Would this be your first time ever filing a motion to reopen your removal case in Immigration Court?
 - a. YES
 - b. NO - Your options may be limited. We recommend consulting an attorney.

4. Do you have access to important documents regarding your case?
 - a. YES
 - b. NO - These motions should include a copy of your final order. If you cannot access it in time, mention this in a footnote.

WHAT IS A 90-DAY NOTICE?

As a result of the class action lawsuit, *Hamama v. Adducci*, brought on behalf of people who had final orders of removal to Iraq, ICE cannot just detain class members for removal right away. It must give class members 90 days' notice that it is trying to remove them before taking them into custody. If you have gotten a 90-day notice, then you have an order of removal and ICE is actively trying to deport you.

WHAT CAN I DO?

The settlement in the *Hamama* case does NOT prevent your removal to Iraq. The only way to prevent removal is to win your individual immigration case, which needs to be reopened through a Motion to Reopen and a Stay of Removal.

A motion to reopen asks the Immigration Court or the Board of Immigration Appeals (BIA) to reopen proceedings after the Immigration Judge/BIA has delivered a decision, so that they can consider new facts or evidence in the case. A stay of removal prevents the Department of Homeland Security (DHS) from executing a final order of removal against a person. If a stay of removal is in effect, DHS may not remove the person from the United States. A motion to reopen and stay of removal is often filed together because the person needs to prevent deportation while they are trying to have their case reopened and reconsidered.

I CAN'T ACCESS AN ATTORNEY. HOW CAN I REOPEN MY CASE?

The ACLU of Michigan, in collaboration with the Immigrant Justice Lab at the University of Michigan Law School, has prepared a sample motion to help Iraqi individuals reopen their cases and seek a stay of removal if they are not able to access free legal help. This motion covers some

of the most common situations that can lead to a motion to reopen. They do not cover every possible motion or avenue to reopen your case. If these motions do not apply to you, you would need to talk to an immigration attorney about other options.

WHEN MUST I FILE BY?

You should file the Motion to Reopen and Stay of Removal before the 90 days expires on your 90-day Notice. This means that you should file as soon as possible once you have received your 90-day Notice of an Order of Removal.

WHERE AND HOW DO I FILE THIS MOTION?

If you appealed your deportation order to the Board of Immigration Appeals, you must send you motion and all supporting documents to the BIA at:

Board of Immigration Appeals

5107 Leesburg Pike

Falls Church, VA 22041

In all other cases, you should send your motion and all supporting documents to the immigration court that entered the removal order against you. The addresses for immigration courts are available online at <https://www.justice.gov/eoir/eoir-immigration-court-listing>.

Because some immigration courts have moved, you should verify that the address is correct here: <https://acis.eoir.justice.gov/en/>.

You should also send a copy of the motion and all supporting documents to the U.S. Immigration and Customs Enforcement Office of Chief Counsel (also known as the Office of the Principal Legal Advisor). The addresses for these offices are available online at www.ice.gov/contact/legal. You must send the documents to the Office Chief Counsel whose area of responsibility includes the immigration court in which your case was most recently heard.

WHAT DOCUMENTS SHOULD I FILE WITH THIS MOTION?

You should include the following supporting documents when you file the Motion to Reopen:

- Your final order of removal. If you do not have access to your final order of removal, add a footnote to the motion, stating: “My final order of removal in this case is not attached because I do not have access to it at this time, and I am filing this motion because my deportation is imminent.”
- The Country Conditions Declaration of Dr. Tareq Ramadan.
- The prepared country conditions packet that applies to your situation.
- If available, any other supporting documentation, including a declaration in support of the motion, or other evidence showing that you would be harmed if deported. Those declarations should be sworn statements (if possible) that explain why you fear returning to Iraq [or a third country].

DO I HAVE TO PAY A FEE TO FILE THIS?

You do not have to pay a fee to file this, because this motion is based on changed country conditions.

HOW CAN I CHECK THE STATUS OF MY CASE?

You can check your case status online at <https://acis.eoir.justice.gov/en/> or by calling 800-898-7180 (TDD: 800-828-1120). Or you can call the immigration court handling your case. For newer cases, you may also use the Respondent Access Portal, at <https://www.justice.gov/eoir/respondentaccess>, to keep updated on your case. Once your case is before the immigration court, you will receive an official notice from the immigration court with information on how to register for the Portal.