

Matter of A-E-V-M-, Respondent

Decided September 4, 2026

U.S. Department of Justice
Executive Office for Immigration Review
Board of Immigration Appeals

- (1) The removal of former President Maduro from power and the ensuing transfer of executive authority constitute a change in country conditions in Venezuela for purposes of assessing an applicant's prospective fear of persecution.
- (2) Remand is required because the Immigration Judge did not sufficiently assess the effect of the changed country conditions on the respondent's particularized risk of future persecution.

FOR THE RESPONDENT: Rosa M. Medina, Esquire, Houston, Texas

FOR THE DEPARTMENT OF HOMELAND SECURITY: Michelle L. Nelsen, Senior Counsel

BEFORE: Board Panel: MALPHRUS, Chief Appellate Immigration Judge; HUNSUCKER, Appellate Immigration Judge; WHITE, Temporary Appellate Immigration Judge.

MALPHRUS, Chief Appellate Immigration Judge:

The Department of Homeland Security ("DHS") appeals from the Immigration Judge's April 22, 2026, decision granting the respondent's application for asylum under section 208 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1158 (2024). At the Board's request, DHS and the respondent filed supplemental briefs regarding the significance of the January 3, 2026, removal from power of former Venezuelan President Nicolás Maduro. The Immigration Judge's decision will be vacated, and the record will be remanded for further proceedings.

I. FACTUAL AND PROCEDURAL HISTORY

The respondent is a native and citizen of Venezuela who was admitted to the United States as a nonimmigrant student on July 27, 2014. In 2015, the respondent's spouse filed an Application for Asylum and Withholding of Removal ("Form I-589") with United States Citizenship and Immigration Services ("USCIS") listing the respondent as a derivative beneficiary. On March 28, 2023, DHS issued the respondent a notice to appear charging her with removability under section 237(a)(1)(C)(i) of the INA, 8 U.S.C.

§ 1227(a)(1)(C)(i) (2018), as an alien who failed to maintain or comply with the conditions of nonimmigrant status. Before the Immigration Judge, the respondent conceded removability, submitted a copy of her husband's Form I-589, and on March 19, 2026, the respondent filed her own Form I-589.

The respondent's claim is based on her political opinion in opposition to the Maduro government. The respondent testified that she and her husband were members of pro-democratic political groups and participated in opposition political activities in Venezuela and that, as a result, they were threatened and intimidated by individuals she believed were supporters of the Maduro regime and by a government official at the University of Carabobo. In addition, her husband was assaulted. The respondent testified that in October 2025, after she came to the United States, Venezuelan authorities annulled her passport and that she continued to express strong opposition to the Maduro government and welcomed his removal from power through social media.

The Immigration Judge granted asylum after concluding that the respondent did not suffer past persecution but was credible and did establish a well-founded fear of future persecution on account of her political opinion. In so ruling, the Immigration Judge acknowledged the removal of former President Maduro from power and the subsequent political developments in Venezuela but concluded that the respondent continued to have a well-founded fear of persecution.

On appeal, DHS argues the Immigration Judge erred in concluding that the respondent carried her burden of establishing a well-founded fear of persecution, particularly in light of changed country conditions. DHS also argues that the Immigration Judge failed to consider whether the respondent's asylum application was timely filed.

II. ANALYSIS

Because the respondent is seeking relief from removal, she has the burden of establishing that she meets all applicable eligibility requirements for relief. *See* INA § 240(c)(4), 8 U.S.C. § 1229a(c)(4) (2024); 8 C.F.R. § 1240.8(d) (2026).

A. Changed Country Conditions

An alien seeking asylum bears the burden of establishing that she is a refugee within the meaning of section 101(a)(42)(A) of the INA, 8 U.S.C. § 1101(a)(42)(A) (2024). An alien who has not established past persecution

may qualify for asylum by demonstrating a well-founded fear of future persecution on account of a statutorily protected ground. *See* 8 C.F.R. § 1208.13(b)(2) (2026). An Immigration Judge’s predictive findings concerning what may occur to an applicant upon returning to her home country are findings of fact which we review for clear error; however, whether those predicted circumstances establish an objectively reasonable fear of persecution is a legal determination which we review de novo. *See Matter of L-T-A-*, 29 I&N Dec. 362, 363–68 (BIA 2025)); *see also* 8 C.F.R. § 1003.1(d)(3)(i), (ii) (2026).

The assessment of whether an alien’s fear is well-founded is necessarily forward looking. *See Matter of Mogharrabi*, 19 I&N Dec. 439, 445 (BIA 1987) (“[A]n applicant for asylum has established a well-founded fear if he shows that a reasonable person in his circumstances would fear persecution.”); *see also Cabrera v. Sessions*, 890 F.3d 153, 159–60 (5th Cir. 2018) (describing how an alien can show a well-founded fear of persecution). Thus, conditions existing at the time an alien departed his or her country are not considered in isolation; material developments that subsequently occur may impact whether the alien’s fear is well-founded. We have long recognized that changed conditions in an alien’s country may be significant to determining whether a fear of future persecution remains objectively reasonable. *See Matter of E-P-*, 21 I&N Dec. 860, 862 (BIA 1997) (stating that “the change in government and increasing stability [subsequent to the alien’s departure] militates against a finding that the applicant has a well-founded fear of persecution”); *see also Matter of A-E-M-*, 21 I&N Dec. 1157, 1160–61 (BIA 1998) (discussing how country conditions evidence showed that the influence of the Shining Path guerillas had recently diminished in Peru and that the respondent did not have a well-founded fear on a nationwide basis).

Changes in the political control or leadership of a country are among the developments that may directly bear on whether the alien’s fear is well-founded. For example, in *Matter of R-R-*, 20 I&N Dec. 547, 551 (BIA 1992), this Board took administrative notice that the Sandinista Party no longer controlled the Nicaraguan Government in considering an asylum claim arising from conditions that existed under the former government. *See also* 8 C.F.R. § 1003.1(d)(3)(iv) (2026) (authorizing the Board to take administrative notice of commonly known facts, including current events and the contents of official documents).

In this case, the parties and the Immigration Judge acknowledged that President Maduro was removed from power on January 3, 2026, and that executive authority in Venezuela passed to another official who now leads

the Interim Government. The respondent's claim is based primarily on her opposition to former President Maduro's government and on the actions of individuals she claims are loyal to former President Maduro. On appeal, the respondent does not dispute that President Maduro was removed from office and is now in custody in the United States based on criminal charges. Rather, she argues that his arrest and removal do not constitute changed country conditions because the "structural, state-sponsored apparatus of persecution and torture in Venezuela remains fully intact" and the military, intelligence, and paramilitary networks that existed under Maduro remain under the control of longstanding Maduro loyalists. The Immigration Judge acknowledged that President Maduro had been arrested and removed and that there had been a "change in political conditions in Venezuela," but concluded that "the essence of the Maduro government remains" and that the "Maduro regime has not disappeared."

We recognize that a change in national leadership does not necessarily eliminate a well-founded fear of persecution.¹ Evidence that officials, institutions, security forces, or other actors associated with the former government continue to exercise authority may be relevant to whether an applicant remains at risk following a change in national leadership. *Matter of N-M-A-*, 22 I&N Dec. at 320–21 (recognizing that the removal of a prior regime does not necessarily eliminate a well-founded fear where the former persecutor retains influence or the successor harbors the same animus).

However, where the asserted fear of persecution arises from opposition to the government headed by that individual, the removal of the national leader from power and the transfer of executive authority alter the political circumstances against which the asserted fear must be evaluated. Former President Maduro's removal from power and the resulting transfer of executive authority constitute changed country conditions in Venezuela, which is highly relevant to the respondent's claim. The removal of the head of a national government is a very significant development and not merely another event occurring against an otherwise static political background.

Another aspect of changed conditions here is the influence of the United States Government on the Interim Government in Venezuela. *See Review of the FY27 State Department Budget Request: Hearing Before the S. Comm.*

¹ In this case, the Immigration Judge did not find that the respondent suffered past persecution. It is only if the respondent establishes past persecution that DHS bears the burden of establishing that changed country conditions constitute a fundamental change in circumstances such that the applicant no longer has a well-founded fear of persecution. *See* 8 C.F.R. § 1208.13(b)(1)(i)(A), (ii) (2026); *Matter of N-M-A-*, 22 I&N Dec. 312, 320–21 (BIA 1998) (en banc).

on Foreign Relations, 119th Congress, 2nd session (June 2, 2026) (statement of Marco Rubio, Sec. of State). Even prior to the Immigration Judge's decision, full diplomatic relations were restored with the reopening of the United States Embassy in Caracas. See Media Note, Office of the Spokesperson, U.S. Dep't of State, Resumption of Operations at U.S. Embassy Caracas (Mar. 30, 2026).² We take administrative notice that, subsequent to the Immigration Judge's decision, there is further evidence of continued cooperation and progress toward reform based on the United States' three-part plan to promote stabilization, economic recovery, and democratic transition in Venezuela. See Fact Sheet: President Donald J. Trump Announces Historic Oil Agreement to Secure American Energy Dominance and Drive Venezuela's Economic Recovery, U.S. Embassy in Caracas (Aug. 31, 2026);³ see also 8 C.F.R. § 1003.1(d)(3)(iv) (permitting administrative notice). In this regard, the State Department has issued statements in recent months about productive discussions toward political reconciliation and a transition to democratic elections between the Interim Government and the 2015 National Assembly, which was the last democratically elected entity in Venezuela. See Press Statements, Office of the Spokesperson, U.S. Dep't of State (June 18, July 16, and Aug. 3, 2026).⁴

Here, the removal of former President Maduro from power and the ensuing transfer of executive authority constitute a change in country conditions in Venezuela for purposes of assessing the respondent's prospective fear of persecution. The Immigration Judge did not sufficiently assess the effect of the changed country conditions on the respondent's particularized risk of future persecution. The statements that the "essence of the Maduro government remains" and that the "Maduro regime has not disappeared" are largely conclusory and devoid of factual findings. The Immigration Judge's decision also lacks analysis concerning the respondent's prospective risk under the changed political circumstances. The Immigration Judge's conclusions relied in part on the fact that the respondent's and her husband's passports were cancelled in 2025, but that

² <https://www.state.gov/releases/office-of-the-spokesperson/2026/03/resumption-of-operations-at-u-s-embassy-caracas/>.

³ <https://ve.usembassy.gov/fact-sheet-president-donald-j-trump-announces-historic-oil-agreement-to-secure-american-energy-dominance-and-drive-venezuelas-economic-recovery/>.

⁴ <https://www.state.gov/releases/office-of-the-spokesperson/2026/06/supporting-an-institutional-democratic-transition-in-venezuela/>; <https://ve.usembassy.gov/advancing-venezuelas-institutional-democratic-transition/>; <https://ve.usembassy.gov/continuing-to-advance-venezuelas-institutional-democratic-transition/>.

occurred while Maduro was still in power. The Immigration Judge also stated that this was as a result of the repressive Simon Bolivar Law or Law Against Hate passed in recent years under the Maduro regime to undermine political dissent, but the Immigration Judge also recognized that there was no evidence in the record as to whether these laws continue to be enforced. Thus, the Immigration Judge's findings are insufficient to resolve the issues before us on appeal. *See Matter of S-H-*, 23 I&N Dec. 462, 465–66 (BIA 2002) (describing the importance of Immigration Judges making comprehensive findings of fact on all issues); *see also Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (explaining that Immigration Judges must articulate the reasons for their decisions); 8 C.F.R. § 1003.1(d)(3)(iv) (regarding the Board's limited fact-finding authority). In particular, the Immigration Judge did not sufficiently address whether the individuals or institutions the respondent fears remain as before and are able and interested in targeting her in the current political environment.

In light of the above, we will remand the record for further proceedings and the preparation of a new decision with additional factual findings and legal analysis. On remand, the parties should be given the opportunity to present additional evidence and arguments as necessary to resolve any relevant issues. *See Matter of A-H-*, 23 I&N Dec. 774, 790–91 (A.G. 2005) (stating that Board's authority to remand for further fact-finding ensures that the Board "is not denied essential facts that bear on the appropriate resolution of a case"). If the respondent's asylum application is properly before the Immigration Judge, which is unclear as discussed below, the Immigration Judge should reassess whether the respondent has established a well-founded fear of future persecution in light of the changed country conditions identified above and the effect of those conditions on her particular circumstances.

B. The 1-Year Filing Requirement

We will also remand the record for further findings and analysis on the threshold issue of whether the respondent timely filed her asylum application or has demonstrated that she qualifies for an exception to the filing deadline pursuant to 8 C.F.R. §§ 1208.4(a)(4), (5) (2026). *See* INA § 208(a)(2)(B), 8 U.S.C. § 1158(a)(2)(B); *Matter of T-M-H- & S-W-C-*, 25 I&N Dec. 193, 194–95 (BIA 2010). The Immigration Judge granted the respondent's asylum application without first determining whether she satisfied the 1-year filing requirement or established an applicable exception.

The record reflects that the respondent was initially included as a derivative beneficiary on her spouse's Form I-589 filed with USCIS in 2015,

a copy of that application was submitted to the Immigration Court in 2023, and the respondent did not file a Form I-589 in her own name until March 19, 2026. As the Immigration Judge did not address the timeliness of the respondent's asylum application or make the necessary factual findings regarding whether the respondent satisfied an exception to the filing deadline, we will also remand the case for further fact-finding on this issue. *See id.*; 8 C.F.R. §§ 1003.1(d)(3)(i), (iv), 1208.4(a)(4), (5).

We emphasize that our determination regarding changed country conditions in Venezuela does not resolve the statutory filing issue. The "changed circumstances" exception to the 1-year filing requirement requires more than the existence of a change in the applicant's country. The applicant must establish that the changed circumstances materially affect her eligibility for asylum and that the application was filed within a reasonable period in light of those circumstances. *See Matter of D-G-C-*, 28 I&N Dec. 297, 299–302 (BIA 2021) (defining "changed circumstances"); *Matter of A-M-*, 23 I&N Dec. 737 (BIA 2005) (holding the changed circumstances exception did not apply because the change in country conditions did not materially affect the applicant's eligibility for asylum).

If the Immigration Judge determines that the respondent's asylum application is timely or qualifies for an exception to the filing deadline, he should reassess her eligibility for asylum in light of the changed country conditions discussed above. If the respondent's asylum application is time-barred, the Immigration Judge should address the respondent's applications for withholding of removal under section 241(b)(3)(A) of the INA, 8 U.S.C. § 1231(b)(3)(A) (2024), and protection under the regulations implementing the Convention Against Torture,⁵ which the Immigration Judge did not address in light of the grant of asylum.

Accordingly, the following order will be entered.

ORDER: The decision of the Immigration Judge is vacated, and the record is remanded for further proceedings consistent with the foregoing opinion and for the entry of a new decision.

⁵ The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994). 8 C.F.R. §§ 1208.16(c), 1208.17 (2026); 8 C.F.R. § 1208.18(a) (2020).