



U.S. Department of Justice

Foreign Claims Settlement Commission of the United States

Washington, D.C. 20579

LIBYA CLAIMS PROGRAM FACT SHEET UPDATE

August 21, 2009

This Fact Sheet is to provide an update of the status of the Foreign Claims Settlement Commission's program for adjudication of U.S. nationals' claims against Libya, pursuant to the Department of State Legal Adviser's referral letters of December 11, 2008, and January 15, 2009 (copies available).

I. Commission Background and Procedures

The Foreign Claims Settlement Commission is an independent quasi-judicial federal agency within the Department of Justice, established in 1954. A good source of information concerning the Commission's history and procedures, including its statute and regulations, can be found on the Commission's website at www.usdoj.gov/fcsc.

The Libya claims adjudication process will be governed by the Commission's statutory authority as set out in 22 U.S.C. 1621 et seq. (Title I of the International Claims Settlement Act of 1949 ("ICSA"))

The Commission consists of a Chairman, who serves on a full-time basis, and two Commissioners, who serve on a part-time basis. They are appointed by the President for fixed terms of office, normally of three years' duration, and are confirmed by the Senate. Currently, the Commission's members consist of its Chairman, Mauricio J. Tamargo and Commissioner Rafael E. Martinez, of Florida. The decisions of the Commission with respect to claims are final and conclusive on all questions of law and fact, and are not subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

The Commission's procedure for processing claims begins once it has received a properly completed Statement of Claim along with related exhibits and supporting documentation. The staff of the Commission then conducts a careful examination of the claim form and the supporting documents submitted. Following this review, the Commission sends the claimant, or if represented, claimant's counsel, a "development" letter, seeking additional information or evidence. The adjudication of a claim is not considered an adversarial matter between the Commission and the claimant. The Commission's staff members endeavor to do all they reasonably and appropriately can to assist each claimant in establishing a compensable claim. After a claim has been fully developed, it is presented to the Commission for adjudication. Following a full review of the claim and all supporting material, the Commission issues a written

"Proposed Decision." The Proposed Decision is then forwarded to the claimant or claimant's counsel, as appropriate.

Under the Commission's regulations, a Proposed Decision becomes final if no objection is filed with the Commission within 30 days of issuance. However, if the claimant is dissatisfied with the Proposed Decision, the claimant may submit, in writing, any additional evidence and argument in support of the objection and may also request an oral hearing before the Commission to present oral evidence and argument. Thereafter, the Commission reconsiders the entire record and renders its determination by the issuance of a "Final Decision." If no timely objection is received on a claim, the Proposed Decision is automatically entered as the Commission's Final Decision. The regulations of the Commission permit the filing of a petition to reopen a claim for further consideration based upon newly discovered evidence. Furthermore, if information on a claim in which the decision has become final comes to the attention of the Commission from sources other than the claimant, the Commission may reopen the claim on its own motion.

If in the Final Decision the Commission finds a claimant entitled to an award, the Commission will certify the award to the Secretary of the Treasury, who has sole jurisdiction, under specific statutory authority, to make payments out of the funds established for that purpose. The Secretary of the Treasury will make payments in accordance with 22 U.S.C. 1626 and 1627(e).

On the question of representation before the Commission, a claimant may either represent himself/herself or be represented by counsel. Under the Commission's regulations, attorneys appearing before the Commission as claimants' representatives must be licensed to practice in a state or territory of the United States or the District of Columbia.

Because the Libya claims program is controlled by Title I of the ICSA, fees for attorney representation services before the Commission are limited to no more than 10 percent of the amount actually paid on an award. See 22 U.S.C. 1623(f). Violation of that provision is a misdemeanor punishable by up to one year's imprisonment and a fine of up to \$5,000. The Commission has no role in the enforcement of the above provision, or authority to waive, suspend, or vary its applicability in any way.

II. Status of the Libya Claims Program

On March 23, 2009, the Commission published notice in the Federal Register announcing the commencement of the Libya Claims Program pursuant to the ICSA and the December Referral Letter (claims for physical injury). The deadline for filing claims under the December Referral was July 23, 2009. The Commission received approximately 50 claims which it is currently processing for adjudication.

On July 7, 2009, the Commission published notice in the Federal Register announcing the commencement of the Libya Claims Program pursuant to the ICSA and the January Referral Letter (six categories of claims). The Commission has set a deadline of July 7, 2010 for filing of claims in this program.

III. Factual and Legal Issues

The two referral letters from the State Department set forth the elements of certain categories of claims that were referred to the Commission for adjudication. In order to qualify for compensation, claimants will need to establish that their claim falls within those categories. Claimants should submit with their Statement of Claim such evidence or legal argument that establishes the elements of their claim. In doing so, claimants should pay particular attention to documentation that is specifically requested on the Statement of Claim form and accompanying instructions. As noted above, should the Commission require further evidence or information on any aspect of a claim before adjudication, the claimant will be notified to that effect, and the Commission staff will work with claimants in order to fully develop the claims prior to presenting them for adjudication. As stated earlier, the Commission's proceedings are non-adversarial.

If any further information is needed, please contact the Commission by telephone at 202-616-6975 or by email at info.fcsc@usdoj.gov.