

federal court for, among other things, hostage-taking.¹ Those cases were pending when, in September 2010, the United States and Iraq concluded an *en bloc* lump-sum) settlement agreement.² The Agreement, which entered into force in May 2011, covered a number of personal injury claims of U.S. nationals arising from acts of the former Iraqi regime occurring prior to October 7, 2004, including claims of personal injury caused by hostage-taking.³ Exercising its authority to distribute money from the settlement funds, the U.S. Department of State provided compensation to numerous individuals whose claims were covered by the Agreement, including some whom Iraq had allegedly taken hostage or unlawfully detained following Iraq's 1990 invasion of Kuwait.

Under the International Claims Settlement Act of 1949 ("ICSA"), the Secretary of State has statutory authority to refer "a category of claims against a foreign government" to this Commission.⁴ The Secretary has delegated that authority to the State Department's Legal Adviser, who, by letter dated October 7, 2014, referred three categories of claims to this Commission for adjudication and certification.⁵ This was the State Department's second referral of claims to the Commission under the Claims Settlement Agreement, the first having been by letter dated November 14, 2012 ("2012 Referral" or "November 2012 Referral").⁶

¹ See, e.g., *Hill v. Republic of Iraq*, 175 F. Supp. 2d 36 (D.D.C. 2001); *Vine v. Republic of Iraq*, 459 F. Supp. 2d 10 (D.D.C. 2006).

² See *Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq*, Sept. 2, 2010, T.I.A.S. No. 11-522 ("Claims Settlement Agreement" or "Agreement").

³ See *id.* Art. III(1)(a)(ii).

⁴ See 22 U.S.C. § 1623(a-1)(C) (2012).

⁵ See *Letter dated October 7, 2014, from the Honorable Mary E. McLeod, Acting Legal Adviser, Department of State, to the Honorable Anuj C. Desai and Sylvia M. Becker, Foreign Claims Settlement Commission* ("2014 Referral" or "October 2014 Referral").

⁶ Although the November 2012 Referral involved claims of U.S. nationals who were held hostage or unlawfully detained by Iraq, it did not involve hostage-taking claims *per se*. Rather, it consisted of certain claimants who had *already received* compensation under the Claims Settlement Agreement from the State Department for their hostage-taking claims, and it authorized the Commission to award additional compensation to those claimants, provided they could show, among other things, that they suffered a "serious

One category of claims from the 2014 Referral is applicable here. That category, known as Category A, consists of

claims by U.S. nationals for hostage-taking¹ by Iraq² in violation of international law prior to October 7, 2004, provided that the claimant was not a plaintiff in pending litigation against Iraq for hostage taking³ at the time of the entry into force of the Claims Settlement Agreement and has not received compensation under the Claims Settlement Agreement from the U.S. Department of State. . . .

¹ For purposes of this referral, hostage-taking would include unlawful detention by Iraq that resulted in an inability to leave Iraq or Kuwait after Iraq invaded Kuwait on August 2, 1990.

² For purposes of this referral, “Iraq” shall mean the Republic of Iraq, the Government of the Republic of Iraq, any agency or instrumentality of the Republic of Iraq, and any official, employee or agent of the Republic of Iraq acting within the scope of his or her office, employment or agency.

³ For purposes of this category, pending litigation against Iraq for hostage taking refers to the following matters: *Acree v. Iraq*, D.D.C. 02-cv-00632 and 06-cv-00723, *Hill v. Iraq*, D.D.C. 99-cv-03346, *Vine v. Iraq*, D.D.C. 01-cv-02674; *Seyam (Islamic Society of Wichita) v. Iraq*, D.D.C. 03-cv-00888; *Simon v. Iraq*, D.D.C. 03-cv-00691.

2014 Referral at ¶ 3.

On October 23, 2014, the Commission published notice in the *Federal Register* announcing the commencement of the second Iraq Claims Program pursuant to the ICOSA and the 2014 Referral.⁷

On June 5, 2017, the Commission received from Claimant a Statement of Claim seeking compensation under Category A of the 2014 Referral, together with exhibits

personal injury” during their detention. The 2012 Referral expressly noted that the “payment already received by the claimant under the Claims Settlement Agreement compensated the claimant for his or her experience for the entire duration of the period in which the claimant was held hostage or was subject to unlawful detention and encompassed physical, mental, and emotional injuries generally associated with such captivity or detention.” *Letter dated November 14, 2012, from the Honorable Harold Hongju Koh, Legal Adviser, Department of State, to the Honorable Timothy J. Feighery, Chairman, Foreign Claims Settlement Commission*, at ¶3 n.3.

⁷ *Program for Adjudication: Commencement of Claims Program*, 79 Fed. Reg. 63,439 (Oct. 23, 2014).

supporting elements of his claim. By letter dated December 17, 2017, Claimant provided additional evidence in support of his claim.

DISCUSSION

Jurisdiction

This Commission's authority to hear claims is limited to the category of claims referred to it by the United States Department of State.⁸ The Commission's jurisdiction under the "Category A" paragraph of the 2014 Referral is limited to claims for hostage-taking of (1) "U.S. nationals," provided that the claimant (2) was not a plaintiff in any litigation against Iraq for hostage taking pending on May 22, 2011 (the "Pending Litigation"), and (3) has not received compensation under the Claims Settlement Agreement from the Department of State. 2014 Referral at ¶ 3.

Nationality

This claims program is limited to claims of "U.S. nationals." Here, that means a claimant must have been a national of the United States when the claim arose and continuously thereafter until May 22, 2011, the date the Agreement entered into force.⁹ Claimant satisfies the nationality requirement. Claimant has provided a copy of his North Carolina birth certificate, and his U.S. passport valid from May 15, 1990, to May 14, 1995, which shows that he was a U.S. national at the time of the alleged hostage-taking (August 1990). He has also provided a copy of his U.S. passport valid from September 21, 2000, to September 20, 2005, and his current U.S. passport, valid from March 25, 2009, to March 24, 2019, as well as North Carolina voter registration cards issued in 2008, 2012 and 2013,

⁸ See 22 U.S.C. § 1623(a-1)(C) (2012).

⁹ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 4-5.

which establish that he remained a U.S. national through the effective date of the Claims Settlement Agreement.

No Pending Litigation

Additionally, Category A states that the claimant may not have been a plaintiff in any of the so-called Pending Litigation cases at the time of the entry into force of the Claims Settlement Agreement.¹⁰ Footnote 3 of the 2014 Referral specifically lists the Pending Litigation cases for purposes of the Referral. Claimant has averred, and the pleadings in the cases cited in footnote 3 confirm, that he was not a plaintiff in any of those Pending Litigation cases. The Commission thus finds that Claimant has also satisfied this element of his claim.

*No Compensation under the Claims Settlement Agreement
from the Department of State*

The Claimant also satisfies the final jurisdictional requirement. Claimant has attested that he has not received compensation under the Claims Settlement Agreement from the U.S. Department of State. Further, we have no evidence that the State Department has provided him any compensation under the Claims Settlement Agreement. Therefore, Claimant meets this element of his claim.

In summary, this claim is within the Commission's jurisdiction pursuant to the 2014 Referral and is entitled to adjudication on the merits.

Merits

Factual Backdrop to Claimant's Allegations

Claimant's hostage-taking claim is based on Iraq's treatment of minors of U.S. nationality after the Iraqi government announced on August 28, 1990, that women and

¹⁰ The Agreement entered into force on May 22, 2011. See Claims Settlement Agreement, art. IX.

minors of foreign nationality could leave Iraq and Kuwait.¹¹ Accordingly, the factual backdrop to Claimant's allegations—including an overview of State Department efforts to evacuate U.S. women and minors from Iraq and Kuwait following Iraq's August 28 announcement—is provided below.

As the Commission has previously recognized, shortly after Iraq invaded Kuwait on August 2, 1990, Iraqi forces began seizing and detaining U.S. nationals in Kuwait.¹² Within days, the Iraqi military had sealed the border crossings and had set up check points on the roads leading out of Kuwait, making it nearly impossible for U.S. nationals (and those of several other countries) to leave.¹³ Throughout the crisis, the Iraqi government granted some groups of individuals permission to leave Iraq and Kuwait. In particular, Iraqi President Saddam Hussein made an announcement on August 28, 1990, authorizing women and minors of foreign nationality to leave Iraq and Kuwait.¹⁴

On August 29, 1990, Margaret Tutwiler, then Assistant Secretary of State for Public Affairs, stated that due to Iraq's change in policy regarding women and minors of foreign nationality, the State Department had started to make plans to evacuate several hundred women and children of U.S. nationality from Iraq and Kuwait.¹⁵ In early September, the U.S. Embassy in Kuwait issued advisories informing U.S. nationals in Kuwait of Iraq's new policy on the departure of women and children and advising them to contact the Embassy for details about the evacuation.¹⁶ From September 1, 1990, to September 22,

¹¹ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 11, 22.

¹² See *id.* at 6.

¹³ See *id.* at 7.

¹⁴ See *id.* at 11.

¹⁵ See *CB State Department Regular Briefing Briefer: Margaret Tutwiler*, FEDERAL NEWS SERVICE, Aug. 29, 1990, at 2-3, Lexis.

¹⁶ See *CB Message from U.S. State Department to American Citizens in Kuwait as Broadcast Via Voice of America*, FEDERAL NEWS SERVICE, Sep. 6, 1990, at 1, Lexis; *CB State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Sep. 11, 1990, at 1, Lexis; *CB State Department Regular Briefing*, FEDERAL NEWS SERVICE, Sep. 12, 1990, at 1-2, Lexis. These advisories, which were broadcast over radio channels operated by the British Broadcasting Corporation and Voice of America, stated

1990, State Department officials in Iraq and Kuwait assisted hundreds of women and children to depart on evacuation flights, many of which were chartered by the U.S. government.¹⁷ On September 19, 1990, and again on September 20, 1990, Tutwiler announced that a flight departing on September 22, 1990, would “accommodate all Americans and the foreign-born members of their families who [had] been able to get permission to leave . . . and who [wished] to depart” from Iraq and Kuwait.¹⁸ She also stated that some U.S. nationals in Kuwait had decided to stay even though the State Department had made clear that it had no plans to schedule additional evacuation flights at that time.¹⁹

On September 24, 1990, Tutwiler reported that over 1,900 U.S. nationals and their family members had been evacuated from Iraq and Kuwait, leaving 600 to 700 U.S. nationals (including men, women, and children) in Kuwait.²⁰ While she refused to disclose the exact number of U.S. nationals who remained in Kuwait voluntarily, she acknowledged that the State Department would assist with travel arrangements for U.S. citizens in this category if they decided later to leave Iraq and/or Kuwait.²¹

that adult males “[remained] subject to detention and arrest.” *See CB State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Sep. 11, 1990, at 1, Lexis; *CB State Department Regular Briefing*, FEDERAL NEWS SERVICE, Sep. 12, 1990, at 1-2, Lexis. In addition to these radio communications, the U.S. Embassy maintained contact with U.S. nationals in Iraq and Kuwait via telephone and the warden system. *See CB State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Aug. 20, 1990, at 1, Lexis; *CB State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Aug. 22, 1990, at 1, Lexis.

¹⁷ *See* Memorandum from Elizabeth M. Tamposi to Sec’y of State on American Citizens Evacuated from Iraq/Kuwait (Dec. 18, 1990) on file with the Commission) [hereinafter “Tamposi Memorandum”]; *CB State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Sep. 11, 1990, at 1, Lexis; *CB State Department Regular Briefing*, FEDERAL NEWS SERVICE, Sep. 12, 1990, at 1, Lexis.

¹⁸ *CB (From the State Department)*, FEDERAL NEWS SERVICE, Sep. 19, 1990, at 1, Lexis; *see CB (CB State Department Regular Briefing Briefer: Margaret Tutwiler)*, FEDERAL NEWS SERVICE, Sep. 20, 1990, at 1, Lexis.

¹⁹ *CB (From the State Department)*, FEDERAL NEWS SERVICE, Sep. 19, 1990, at 1, 5, Lexis; *see CB State Department Regular Briefing Briefer: Margaret Tutwiler*, FEDERAL NEWS SERVICE, Sep. 20, 1990, at 1, 3-4, Lexis.

²⁰ *See CB State Department Regular Briefing Briefer: Margaret Tutwiler*, FEDERAL NEWS SERVICE, Sep. 24, 1990, at 1, Lexis.

²¹ *See id.*

On October 5, 1990, the State Department announced that it had scheduled an evacuation flight on October 10, 1990, for approximately 300 U.S. citizens, including many women and children who initially chose to stay in Kuwait during the mass evacuation in September 1990 but subsequently decided to leave.²² On November 15, 1990, the State Department announced that it would evacuate another group of U.S. nationals in Kuwait and Iraq, comprised principally of “women and children who [had] been qualified to depart for some time, but [had] only recently decided to leave,” on a flight scheduled for November 18, 1990.²³

After the Iraqi government authorized the departure of all foreign nationals in Iraq and Kuwait on December 6, 1990,²⁴ the U.S. Embassies in Kuwait and Baghdad contacted the U.S. nationals remaining in both countries to inform them that the State Department had chartered evacuation flights for all U.S. nationals who wished to depart.²⁵ On December 11, 1990, the State Department disclosed that while the “overwhelming majority of those American citizens [had] chosen to leave,” 310 U.S. citizens (60 women, 215 children, and 35 adult males) had decided to stay in Kuwait and over 200 had decided to stay in Iraq.²⁶ Most of the U.S. citizens who chose to remain were dependents of “Iraqi, Kuwaiti, or other Arab heads of household who [had] decided not to leave” even though State Department officials “repeatedly urged [all U.S. nationals remaining in Iraq and Kuwait] to take advantage of opportunities to depart.”²⁷

²² See *State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Oct. 5, 1990, at 1, Lexis.

²³ See *State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Nov. 15, 1990, at 2, Lexis.

²⁴ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 12.

²⁵ See *State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Dec. 10, 1990, at 1, Lexis.

²⁶ See *State Department Regular Briefing Briefer: Richard Boucher*, FEDERAL NEWS SERVICE, Dec. 11, 1990, at 1-2, Lexis.

²⁷ See *id.* at 1.

On December 13, 1990, the last U.S. government chartered evacuation flight left Kuwait (via Baghdad).²⁸ That same day, a State Department official stated that all remaining U.S. citizens in Kuwait and Iraq who wished to depart had done so and “that every possible effort to contact and encourage Americans in Kuwait to depart [had] been done.”²⁹ The State Department also advised U.S. citizens who sought to leave Kuwait after December 13, 1990, that the U.S. Embassies in Baghdad and Amman could assist with travel arrangements for daily commercial flights that Iraq had established between Kuwait City and Baghdad and between Baghdad and Amman.³⁰

Factual Allegations

Claimant states that Iraq held him hostage from August 2, 1990, until October 10, 1990, a total of 70 days. Claimant asserts that, on August 2, 1990, he was two-months-old and living with his family in Kuwait when Iraq invaded the country. Claimant asserts that he and his family hid in Kuwait until October 10, 1990, when they departed Kuwait (via Baghdad, Iraq), on an October 10, 1990 evacuation flight to London, chartered by the U.S. government.

Supporting Evidence

Claimant has supported his claim with a copy of his U.S. passport that contains a Kuwaiti entrance stamp dated May 25, 1990, and an Iraqi exit stamp dated October 10, 1990. He has also provided copies of his father’s Lebanese passport from the time of the invasion, and his mother’s Egyptian passport from the time of the invasion, each of which also contain an Iraqi exit stamp dated October 10, 1990. Claimant has additionally

²⁸ See *State Department Regular Briefing Briefer: Margaret Tutwiler*, FEDERAL NEWS SERVICE, Dec. 13, 1990, at 15, Lexis; Tamposi Memorandum, at 4.

²⁹ See *State Department Regular Briefing Briefer: Margaret Tutwiler*, FEDERAL NEWS SERVICE, Dec. 13, 1990, at 1, Lexis.

³⁰ See *id.*

provided declarations from him and his parents, and a newspaper article from September 1991, which provide brief details about his detention and departure from Kuwait.

Legal Standard

To make out a substantive claim under Category A of the 2014 Referral, a claimant must show that (1) Iraq was engaged in an armed conflict and (2) during that conflict, Iraq took the claimant hostage.³¹ The Commission has previously held that, to establish a hostage-taking claim, a claimant must show that Iraq (a) seized or detained the claimant and (b) threatened the claimant with death, injury, or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for the claimant's release.³² A claimant can establish the first element of this standard by showing that the Iraqi government confined the claimant to a particular location or locations within Iraq or Kuwait, or prohibited the claimant from leaving Iraq and/or Kuwait.³³

Application of Standard to this Claim

(1) Armed Conflict: Claimant alleges that Iraq took him hostage in Kuwait on August 2, 1990, and held him hostage for 70 days, until October 10, 1990. In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission held that during this entire period, Iraq was engaged in an armed conflict with Kuwait.³⁴ Thus, Claimant satisfies this element of the standard.

(2) Hostage-taking: To satisfy the hostage-taking requirement of Category A of the 2014 Referral, Claimant must show that Iraq (a) seized or detained him and

³¹ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 16. An estate claimant would of course need to make this showing as to its decedent.

³² See *id.* at 17-20.

³³ See *id.* at 17.

³⁴ See *id.* at 16-17.

(b) threatened him with death, injury, or continued detention (c) in order to compel a third party, such as the United States government, to do or abstain from doing any act as an explicit or implicit condition for his release. Although he alleges that Iraq held him hostage from August 2, 1990, until October 10, 1990, a total of 70 days, Claimant satisfies this standard only for the 27-day period from August 2, 1990, to August 28, 1990.

a) Detention/deprivation of freedom: For purposes of analyzing Claimant's allegations of having been detained, his time in Kuwait following the Iraqi invasion can be divided into three periods: (i) between the Iraqi invasion on August 2, 1990 and the Iraqi government's formal closing of the borders on August 9, 1990; (ii) from that August 9th formal closing of the borders until the August 28, 1990 announcement that women and minors could leave Iraq and Kuwait; and (iii) from that August 28th announcement until Claimant's departure on October 10, 1990.³⁵

From August 2, 1990, until Iraq formally closed its borders to foreign nationals on August 9, 1990, Iraq confined Claimant in Kuwait by threatening all U.S. nationals with immediate seizure and forcible detention.³⁶ Although some foreign nationals did manage to leave Kuwait and/or Iraq during this period, Claimant could not reasonably be expected to have escaped.³⁷ Iraqi authorities were forcibly detaining foreign nationals (including U.S. nationals) in Kuwait, relocating many to Baghdad against their will.³⁸ Claimant had, as the United Nations Compensation Commission has put it, a "manifestly well-founded fear" of being killed or forcibly detained if he had left his residence.³⁹ The Commission

³⁵ *See id.* at 20-21.

³⁶ *See id.* at 21.

³⁷ *See id.*

³⁸ *See id.*

³⁹ Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of Individual Claims for Damages up to US \$100,000 (Category "C" Claims), UN Doc. S/AC.26/1994/3 (1994), at 93.

has previously recognized that for the purposes of the legal standard applicable here, putting Claimant in this situation in effect amounts to detention.⁴⁰ Iraq thus detained Claimant from August 2, 1990, to August 9, 1990.

From August 9, 1990, until August 28, 1990, the Iraqi government confined Claimant to Kuwait, preventing him from leaving the country by the threat of force. Starting on August 9, 1990, the Iraqi government formally closed Kuwait's borders, forcibly prohibiting U.S. nationals from leaving.⁴¹ As of that date, Iraq prohibited Claimant from leaving the country, effectively detaining him within the borders of Kuwait and Iraq.⁴² For Claimant, this formal policy of prohibiting U.S. nationals from leaving Iraq and Kuwait lasted until August 28, 1990, when the Iraqi government announced that all female and minor U.S. nationals could leave.⁴³

Although Claimant may have been legally permitted to leave Kuwait on August 28, 1990, his detention did not necessarily end on that date. As the Commission has previously recognized, a claimant's detention ends only on the date that he is released from the control of the person or entity that detained him.⁴⁴ In this regard, any attempt by Iraq "to restrict [the] movements" of a claimant establishes control,⁴⁵ whereas a claimant who has a reasonable opportunity to leave the site of his or her captivity is deemed no longer to be under [Iraq's] control.⁴⁶

⁴⁰ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 21.

⁴¹ See *id.* at 21-22.

⁴² See *id.* at 22.

⁴³ See *id.*

⁴⁴ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 22; see also Claim No. LIB-II-183, Decision No. LIB-II-178 (Proposed Decision), at 13 (2012).

⁴⁵ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 22 (citing Claim No. LIB-II-183, Decision No. LIB-II-178 (Proposed Decision), at 12 (2012)).

⁴⁶ See *id.*

Here, while Claimant advances multiple reasons why he remained under Iraq's control after August 28, 1990, only one of these reasons concerns acts allegedly committed by the Iraqi government: Claimant argues that, notwithstanding the August 28, 1990 announcement, "an environment of extreme military hostility" created by the government and army of Iraq in Kuwait persisted and, thus, his family feared that Iraq would have seized or detained them had they attempted to leave prior to October 10, 1990.⁴⁷ Under the international law applicable to armed conflict, however, the mere presence of an occupying or belligerent force is not sufficient to establish the injury of detention. We thus reject Claimant's contention that Iraq acted to restrict his movements because its hostile occupation of Kuwait continued after August 28, 1990, and conclude that he has failed to establish that Iraq detained him after that date.⁴⁸

In sum, Iraq thus detained Claimant from August 2, 1990, to August 28, 1990.

b) Threat: In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission determined that the Iraqi government threatened U.S. nationals in Kuwait and Iraq numerous times with continued detention.⁴⁹ Both Iraqi President Saddam Hussein and the Speaker of Iraq's National Assembly Saadi Mahdi made clear that American nationals (as well as those from numerous other countries)

⁴⁷ Claimant also argues that his parents did not learn about the evacuation flights until shortly before October 10, 1990. This argument, however, does not address an attempt *by Iraq* to restrict Claimant's movements after August 28, 1990. We thus make no finding on this issue.

⁴⁸ None of the other evidence in the record suggests that Iraq placed restrictions on Claimant's movements. Statements made by State Department officials indicate that women and children of U.S. nationality who remained in Kuwait after September 22, 1990, chose to stay in the country. *See* Claim No. IRQ-II-143, Decision No. IRQ-II-314 (2019), at 7, 16. These communications also establish that the State Department chartered Claimant's flight, which departed on October 10, 1990, and another flight that left on November 18, 1990, to evacuate women and children who initially chose to stay in Kuwait during the mass evacuation in September 1990 but subsequently decided to leave. *See id.* at 7-8.

⁴⁹ *See id.* at 23.

would not have been permitted to leave Kuwait and/or Iraq at that time.⁵⁰ Claimant has thus established that Iraq threatened to continue to detain him until August 28, 1990.

c) Third party coercion: The Commission has previously held that Iraq detained all U.S. nationals in Kuwait or Iraq at the time and threatened them with continued detention in order to compel the United States government to act in certain ways as an explicit and/or implicit condition for their release.⁵¹ Iraq itself stated that it sought three things from the United States government before it would release the detained U.S. nationals; it wanted the United States (i) not to attack Iraq, (ii) to withdraw its troops from Saudi Arabia; and/or (iii) to end the economic embargo imposed on Iraq.⁵² Indeed, the U.S. government itself understood Iraq's actions to be hostage-taking.⁵³

Claimant has thus established that from August 2, 1990, through the August 28, 1990 announcement that women and minors could leave, Iraq detained Claimant in order to compel the United States government to act in certain ways as an explicit and/or implicit condition for his release.

In sum, this claim meets the standard for hostage-taking within the meaning of the 2014 Referral. Iraq held Claimant hostage in violation of international law for a period of 27 days, and Claimant is thus entitled to compensation.

COMPENSATION

Having concluded that the present claim is compensable, the Commission must next determine the appropriate amount of compensation.

⁵⁰ *See id.*

⁵¹ *See* Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 23.

⁵² *See id.* at 23-24.

⁵³ *See* George H. W. Bush, "These Innocent People . . . Are, In Fact, Hostages" in U.S. Dep't of State, *American Foreign Policy Current Documents 1990* 484 (Sherrill Brown Wells ed. 1991); *see also* 2014 Referral at ¶ 3; *cf.* United Nations S.C. Res. 674 Oct. 29, 1990) noting "actions by . . . Iraq authorities and occupying forces to take third-State nationals hostage" and demanding that Iraq "cease and desist" this practice).

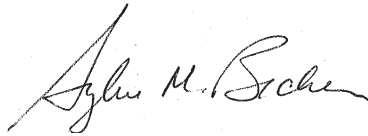
In its first decision awarding compensation for hostage-taking under the 2014 Referral, the Commission held that successful claimants should be awarded compensation in the amount of \$150,000 plus an additional \$5,000 for each day the claimant was in captivity.⁵⁴ Therefore, for the 27 days Iraq held Claimant hostage, he is entitled to an award of \$285,000, which is \$150,000 plus 27 x \$5,000). This amount constitutes the entirety of the compensation to which Claimant is entitled under the Claims Settlement Agreement.

The Commission hereby enters the following award, which will be certified to the Secretary of the Treasury for payment under sections 7 and 8 of the ICSA.⁵⁵

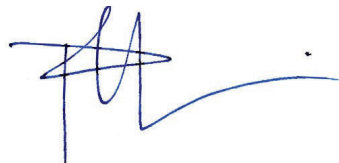
AWARD

Claimant is entitled to an award in the amount of \$285,000.

Dated at Washington, DC, February 28, 2019
and entered as the Proposed Decision
of the Commission.



Sylvia M. Becker, Commissioner



Patrick Hovakimian, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days of delivery of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after delivery, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. § 509.5 (e), (g) (2018).

⁵⁴ See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 24-26.

⁵⁵ 22 U.S.C. §§ 1626-1627 (2012).