

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20579**

In the Matter of the Claim of	}	
	}	
	}	
5 U.S.C. §552(b)(6)	}	Claim No. IRQ-II-073
	}	
	}	Decision No. IRQ-II-295
Against the Republic of Iraq	}	

PROPOSED DECISION

Claimant brings this claim against the Republic of Iraq (“Iraq”) on the basis of an unspecified injury. Because Claimant has not established that he was a U.S. national at the time his claim arose, the claim is denied.

BACKGROUND AND BASIS OF THE PRESENT CLAIM

The precise basis for Claimant’s claim against Iraq is unclear. Although Claimant does not appear to have been among them, many individuals sued Iraq (and others) in 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

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”).

occurring prior to October 7, 2004, including claims of personal injury caused by hostage-taking and certain physical-injury claims.³ The Agreement defined “U.S. nationals” as “natural and juridical persons who were U.S. nationals at the time their claim arose and through the date of entry into force of this Agreement.”⁴

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.⁵ 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.⁶ 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”).⁷

On October 23, 2014, the Commission published notice in the *Federal Register* announcing the commencement of the second Iraq Claims Program pursuant to the ICSA and the 2014 Referral.⁸

³ See *id.* Art. III(1)(a)(ii).

⁴ See *id.* Art. I(2).

⁵ See 22 U.S.C. § 1623(a)(1)(C) (2016).

⁶ 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”).

⁷ See 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 (“2012 Referral” or “Referral”). 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 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.” *Id.*

⁸ *Program for Adjudication: Commencement of Claims Program*, 79 Fed. Reg. 63,439 (Oct. 23, 2014).

On June 24, 2015, the Commission received from Claimant a completed Statement of Claim that, although unclear in many respects, appears to seek compensation under the 2014 Referral.

DISCUSSION

This Commission's authority to hear claims is limited to the category of claims referred to it by the United States Department of State.⁹ Here, therefore, we must look to the language of the 2014 Referral to determine our jurisdiction. That language limits our jurisdiction to three categories of claims: (1) claims of U.S. nationals who were taken hostage by Iraq prior to October 7, 2004 (known as "Category A"); (2) claims of U.S. nationals who died while being held hostage ("Category B"); and (3) certain personal injury claims of U.S. nationals who had pending litigation against Iraq, arising out of acts committed prior to October 7, 2004 ("Category C").

Claimant has not specified the category under which he seeks compensation. His claim, however, fails to satisfy the threshold requirement of each category—that it be brought by a "U.S. national." The term "U.S. national" has a specific legal meaning in this context. When the Commission interprets terms such as "U.S. national," Congress has directed us to look first to "the provisions of the applicable claims agreement."¹⁰ Here, that command means we must turn first to the Claims Settlement Agreement. That Agreement expressly provides a definition of "U.S. nationals." Article I of the Agreement states that "[r]eference to 'U.S. nationals' shall mean natural and juridical persons who were U.S. nationals *at the time their claim arose* and through the date of entry into force

⁹ See 22 U.S.C. § 1623(a)(1)(C) (2016).

¹⁰ 22 U.S.C. § 1623(a)(2) (2016).

of this agreement.”¹¹ As the Commission has recognized in its previous decisions, the U.S. nationality requirement thus means that 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.¹²

Claimant has failed to show that he was a U.S. national when his claim arose. Claimant appears to argue that he qualifies as a U.S. national because he received a “green card” in 1984. Yet, even assuming that Claimant was eligible to become a U.S. citizen at that time, this would not be sufficient to establish U.S. nationality for our purposes here. It is well-settled in the Commission’s jurisprudence that U.S. nationality can be acquired “only by birth or by naturalization under the process set by Congress.”¹³ Claimant has provided no evidence that he was a U.S. national at birth or that he was ever naturalized as a U.S. citizen.¹⁴ Additionally, as we have previously recognized, a claimant that has not been naturalized does not qualify as a U.S. national merely because he may have taken steps towards becoming a U.S. citizen or otherwise might be eligible for U.S citizenship.¹⁵ Thus, even assuming Claimant took steps towards becoming a U.S. citizen or was eligible to become a U.S. citizen in 1984, he does not qualify as a U.S. national for the purposes of the 2014 Referral.

¹¹ Claims Settlement Agreement, art. I(2) (emphasis added).

¹² See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 4-5.

¹³ Claim No. IRQ-II-318, Decision No. IRQ-II-027 (Final Decision), at 3 (2018).

¹⁴ The Commission Staff contacted Claimant multiple times from 2016 to 2018 to request documents concerning Claimant’s U.S. nationality but received no response.

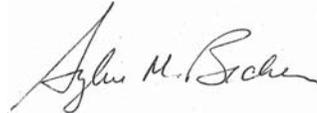
¹⁵ See Claim No. IRQ-II-318, Decision No. IRQ-II-027 (Final Decision), at 3 (2018); Claim No. IRQ-II-322, Decision No. IRQ-II-001, at 5.

Accordingly, this claim must be and is hereby denied. The Commission makes no determinations about any other aspect of this claim.¹⁶

Dated at Washington, DC, August 9, 2018
and entered as the Proposed Decision
of the Commission.

**This decision was entered as the
Commission's Final Decision on**

September 24, 2018



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) (2017).

¹⁶ The Commission notes, however, that Claimant has not alleged or provided any information that indicates he sustained any of the injuries falling within the 2014 Referral (*i.e.*, hostage-taking, death while being held hostage, and personal injury).