



United States Department of State

Washington, D.C. 20520

October 7, 2014

The Honorable Anuj C. Desai and Sylvia M. Becker
Foreign Claims Settlement Commission of the United States
Department of Justice
Washington, DC 20579

Dear Commissioners Desai and Becker:

On September 2, 2010, the United States entered into the Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq (“Claims Settlement Agreement”). The Claims Settlement Agreement was approved by the Iraqi Parliament, and on June 21, 2011, Iraq transferred the \$400 million settlement amount to the U.S. Treasury. The Claims Settlement Agreement covers claims of U.S. nationals against Iraq that “arise from alleged personal injury (whether physical or non-physical, including emotional distress) or death caused by any act of torture, extrajudicial killing, aircraft sabotage, hostage-taking, or the provision of material support or resources for such an act” for acts that occurred prior to October 7, 2004, as well as physical injury claims that were the subject of an exchange of diplomatic notes in 1990. The Agreement settled and extinguished all claims falling within its ambit, and the United States agreed to terminate all legal proceedings in U.S. courts arising from such claims, to nullify all attachments and judgments obtained in connection with such claims, and to preclude all further U.S. litigation based on such claims. Following the receipt of the settlement funds transferred by Iraq, the Department of State has undertaken to distribute payments for certain claims covered by the Claims Settlement Agreement, including claims of former prisoners of war, claims of the spouses of prisoners of war, claims of former hostages and human shields with unpaid judgments against Iraq or those with pending litigation against Iraq at the time of the entry into force of the Claims Settlement Agreement (“pending litigation”), and compensation for U.S. servicemen injured in the 1987 attack on the U.S.S. Stark.

On November 14, 2012, pursuant to the discretionary authority under 22 U.S.C. §1623(a)(1)(C) delegated to the Legal Adviser by the Secretary of State, the Legal Adviser referred one category of claims within the scope of the Claims Settlement Agreement to the Foreign Claims Settlement Commission of the United States (“Commission”) for adjudication and certification. That referral was for claims of U.S. nationals for special circumstances, where the claimants have already received compensation under the Claims Settlement Agreement from the State Department and where the severity of the claimants’ serious personal injury warrants additional compensation. With this letter, under the same discretionary authority, I am referring additional categories of claims within the scope of the Claims Settlement Agreement for adjudication and certification. Again, we believe that the Commission is particularly well-suited to undertake this

task. The Commission is requested to make determinations with respect to the three categories described below, in accordance with the provisions of 22 U.S.C. §1621 *et seq.* and the Claims Settlement Agreement.

Category A: This category shall consist 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. If the Commission decides to award compensation for these claims, we recommend an amount of \$150,000 per claim plus \$5,000 for each day the claimant was in captivity.

Category B: This category shall consist of claims of U.S. nationals for death while being held hostage by Iraq in violation of international law prior to October 7, 2004. If the Commission decides to award compensation for these claims, we recommend that the Commission award up to but no more than \$5 million per claim.

Category C: This category shall consist of claims of U.S. nationals for any personal injury resulting from physical harm to the claimant caused by Iraq in violation of international law prior to October 7, 2004, provided that the claimant: 1) had pending litigation against Iraq arising out of acts other than hostage taking; 2) has not already been compensated pursuant to the Claims Settlement Agreement; and 3) does not have a valid claim under and has not received compensation pursuant to Category B of this referral. If the Commission decides to award compensation for these claims, we recommend that the Commission award an amount commensurate with the injury but no more than \$1 million per claim.

Please direct any inquiries you may have to the Department of State's Office of International Claims and Investment Disputes, Suite 203, South Building, 2430 E Street, NW, Washington, DC 20037-2800.

Sincerely,



Mary E. McLeod
Acting Legal Adviser

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.