

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

In the Matter of the Claim of	}	
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	}	
5 U.S.C. §552(b)(6)	}	Claim No. IRQ-II-290
	}	
	}	Decision No. IRQ-II-166
	}	
Against the Republic of Iraq	}	
	}	

Counsel for Claimant:	Daniel Wolf, Esq. Law Office of Daniel Wolf
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PROPOSED DECISION

Claimant brings this claim against the Republic of Iraq (“Iraq”) alleging that Iraq held her hostage in violation of international law in August and September 1990. Because she has established that Iraq held her hostage for 31 days, she is entitled to an award of \$305,000.

BACKGROUND AND BASIS OF THE PRESENT CLAIM

Claimant alleges that she was a five-year-old United States citizen visiting her grandparents in Iraq when Iraq invaded Kuwait on August 2, 1990. She asserts that, beginning with the invasion and for approximately one month thereafter, she was first forced to hide in two residences in constant fear of being captured by Iraqi authorities, and then detained and held as a human shield at an Iraqi army base. She further claims that during this entire period, the Iraqi government in effect forcibly prevented her (and other U.S. nationals) from leaving Iraq and did so with the express purpose of compelling the

United States government to acquiesce to certain Iraqi government demands. Claimant asserts that she left Iraq on September 2, 1990, after the Iraqi government authorized female and minor U.S. nationals to leave.

Although Claimant was not among them, many of the U.S. nationals in Iraq and Kuwait at the time of the 1990-91 Iraqi occupation of Kuwait sued Iraq (and others) in federal court for, among other things, hostage-taking.<sup>1</sup> Those cases were pending when, in September 2010, the United States and Iraq concluded an *en bloc* (lump-sum) settlement agreement.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> This was the State Department's

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<sup>1</sup> 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).

<sup>2</sup> 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").

<sup>3</sup> See *id.* Art. III(1)(a)(ii).

<sup>4</sup> See 22 U.S.C. § 1623(a)(1)(C) (2012).

<sup>5</sup> 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").

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”).<sup>6</sup>

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-taking<sup>1</sup> by Iraq<sup>2</sup> 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 taking<sup>3</sup> 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. . . .

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

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<sup>6</sup> 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.” *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.

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.<sup>7</sup>

On November 2, 2015, the Commission received from Claimant a completed Statement of Claim seeking compensation under Category A of the 2014 Referral, together with exhibits supporting the elements of her 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.<sup>8</sup> 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.<sup>9</sup> Claimant satisfies the nationality requirement. She has provided a copy of her U.S. passport valid in August 1990, which shows that she was a U.S. national at the time of the alleged hostage-taking. She has also provided a copy of a current U.S. passport, which

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

<sup>8</sup> See 22 U.S.C. § 1623(a)(1)(C)(2012).

<sup>9</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 4-5.

expires in April 2023 and establishes that she 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.<sup>10</sup> Footnote 3 of the 2014 Referral specifically lists the Pending Litigation cases for purposes of the Referral. Claimant has averred under oath in her Statement of Claim, and the pleadings in the cases cited in footnote 3 confirm, that she was not a plaintiff in any of those Pending Litigation cases. The Commission thus finds that Claimant has also satisfied this element of her claim.

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

The Claimant also satisfies the final jurisdictional requirement. Claimant has stated that she has not “received any compensation under the Claims Settlement Agreement from the Department of State.” Further, we have no evidence that the State Department has provided her any compensation under the Claims Settlement Agreement. Therefore, Claimant meets this element of her 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 Allegations*

Claimant states that Iraq held her hostage from August 2, 1990, until September 2, 1990, a total of 32 days. She alleges that she five years old and visiting her grandparents

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

in Iraq with her mother and sisters when Iraq invaded Kuwait on August 2, 1990. She asserts that, beginning with the invasion and for approximately one week thereafter, she was forced to hide in her mother's childhood home in Basra, Iraq and her grandparents' residence in al-Baladiyat, Iraq, in constant fear of being captured by Iraqi authorities. Claimant states that she was at her grandparents' residence on August 9, 1990, when Iraqi soldiers seized her, her mother, and her sisters and drove them to an Iraqi army base. Claimant contends that they were held at the army base for approximately 12 days before Iraqi soldiers brought them back to her grandparents' residence, where they remained confined. On September 1, 1990, they boarded a bus to the Baghdad airport along with several other U.S. nationals who sought to leave Iraq. She asserts that she departed Iraq on a Lufthansa charter flight ("Lufthansa flight") that left Baghdad at 2:30 a.m. on September 2, 1990.

#### *Supporting Evidence*

In support of her claim, Claimant has submitted a number of documents that provide background about the broader geopolitical situation during the First Gulf War in 1990-91, including some that relate specifically to the circumstances faced by U.S. nationals in Iraq and Kuwait at the time. These documents include statements from U.S. and Iraqi officials, resolutions of the United Nations Security Council, newspaper articles, a report from Amnesty International on human rights violations committed by Iraq in 1990, unclassified cables from the U.S. Department of State, and affidavits submitted in a lawsuit brought by other U.S. nationals who were also in Kuwait or Iraq during the First Gulf War.

Claimant has also submitted a number of documents that are specific to her claim, including her sworn Statement of Claim, two news articles published in the *Los Angeles Times* in September 1990 that mention her mother and provide further information about

the circumstances of her detention and alleged departure from Kuwait and Iraq, two declarations that state that she flew from Baghdad to Frankfurt on September 2, 1990, and a declaration from her mother that contains similar assertions.

Claimant has also provided a list containing flight designations and the departure dates of flights that were used to evacuate U.S. nationals and their family members from Iraq and Kuwait. That list was appended to a memorandum dated December 18, 1990, that was sent to the U.S. Secretary of State by Elizabeth Tamposi, who was then the Assistant Secretary of State for Consular Affairs. As discussed further below, the record raises a factual question as to whether the Lufthansa flight departed on September 2, 1990, as Claimant contends, or one day earlier, on September 1, 1990.

#### *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.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup>

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<sup>11</sup> 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.

<sup>12</sup> See *id.* at 17-20.

<sup>13</sup> See *id.* at 17.

*Application of Standard to this Claim*

Claimant satisfies this standard for the period August 2, 1990, to September 1, 1990. Although she alleges that her evacuation flight did not leave Baghdad until September 2, 1990, Claimant has not carried her burden to prove that her evacuation flight left on that date. The evidence supporting this conclusion includes both the documents submitted by Claimant and other documents in the Commission's files that suggest that the flight departed on September 1, 1990.

Claimant has submitted two declarations, in which she states that she boarded her evacuation flight on Sunday, September 2, 1990, and that the plane departed at approximately 2:30 a.m. Baghdad time on that date. Claimant has not, however, provided any further evidence to substantiate her assertion that her evacuation flight left Baghdad on September 2, 1990. The two *Los Angeles Times* articles that Claimant has submitted are ambiguous on the flight's departure date. The first article, dated Monday, September 3, 1990, states that Claimant and her children departed Baghdad on a Lufthansa flight but does not indicate the date or the time that the plane left Baghdad. The second article, dated Sunday, September 2, 1990, is equivocal on the precise date the flight took off. While the article states that the "hostage release came after midnight" (which would mean the flight left on Sunday, September 2, 1990), it also reports that Claimant's flight was one of three evacuation flights that left Iraq on "Saturday" (which would be September 1, 1990). Moreover, the article makes no mention of the departure time of the flight.

Most importantly, the list of flights appended to the State Department memorandum submitted by Claimant directly contradicts her assertion that her flight departed on September 2, 1990. The recorded departure date for her evacuation flight, designated on the list as "Lufthansa Flight," is September 1, 1990, and handwritten notes on the side of



the page further state that Claimant's flight and another flight designated as the "Jesse Jackson Flight" departed Baghdad on September 1, 1990.

In addition to the evidence that Claimant has submitted, other relevant documents in the Commission's files provide further support for the conclusion that her evacuation flight departed on September 1, 1990, not on September 2, 1990, as she alleges. These documents fall into two categories: contemporaneous news reports (other than the two *Los Angeles Times* articles Claimant submitted) and records submitted by other claimants in this program.

Contemporaneous news reports that discuss the departure of what appears to be Claimant's evacuation flight—a Lufthansa charter flight from Baghdad to Frankfurt—indicate that the flight departed on September 1, 1990.<sup>14</sup> The *Associated Press* reported on September 2, 1990, that Claimant's flight was one of three flights carrying women and children that departed Baghdad on September 1, 1990, and that it arrived in Frankfurt at 2:15 a.m. after five hours in the air.<sup>15</sup> Given this flight and arrival time, the Lufthansa flight would have departed Baghdad at approximately 11:15 p.m. Baghdad time.<sup>16</sup> Similarly, another wire service, *United Press International*, reported on September 1, 1990,

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<sup>14</sup> The media reports do not uniformly state that Claimant's evacuation flight left Baghdad on September 1, 1990. Two reports suggest that the plane departed on September 2, 1990, but these reports fail to state the actual departure time of the flight. See Paul Fuller, *Hostage Britons Take-Off to Freedom*, PRESS ASSOCIATION, Sept. 1, 1990 (reporting that the British Foreign Office had stated that another evacuation flight had departed at 9:50 p.m. British time on September 1, 1990, which would have been 12:50 a.m. on September 2, 1990 Baghdad time, "within minutes" of what appears to be Claimant's evacuation flight); Edward Cody, *Baghdad; Men Still Detained; New Flight Delayed*, WASH. POST., Sept. 3, 1990, A1 (reporting that another evacuation flight departed Iraq on September 2, 1990 at "about the same time" as what appears to be Claimant's evacuation flight).

<sup>15</sup> Terry Leonard, *Hundreds of Foreigners, Including Americans, Fly Out of Iraq*, ASSOCIATED PRESS, Sept. 2, 1990.

<sup>16</sup> See Time and Date AS, Time Zone in Baghdad, Iraq (Baghdad), <http://www.timeanddate.com/time/zone/iraq/baghdad> (last visited February 9, 2017); Time and Date AS, Time Zone in Frankfurt, Hesse, Germany (Frankfurt am Main), <https://www.timeanddate.com/time/zone/germany/frankfurt> (last visited February 9, 2017).

that the Lufthansa flight was one of three flights “[to leave] Baghdad for freedom Saturday” (which was September 1, 1990 itself).<sup>17</sup> This is consistent with a September 5, 1990 *Long Beach Press-Telegram* article that quotes Claimant’s mother extensively: that article states that Claimant boarded the flight on “Saturday night” (which again would be September 1, 1990). The article also mentioned specific points in time on that day, referring to Claimant’s flight as “a 7 p.m. flight,” which she boarded at 11:30 p.m.

Moreover, as noted above, records submitted by other claimants in this program (Claim Nos. IRQ-II-248,<sup>18</sup> IRQ-II-060, IRQ-II-061, IRQ-II-062, IRQ-II-063, IRQ-II-064, and IRQ-II-324) who appear to have been evacuated on Claimant’s flight overwhelmingly support the conclusion that the flight departed on September 1, 1990. These records include statements submitted by these other claimants alleging that they departed Iraq on September 1, 1990, and copies of their U.S. passports, which contain Iraqi exit stamps with the same date.

Given the evidence indicating that Claimant’s flight most likely departed on September 1, 1990, we find that Claimant’s declarations alone are not sufficient to carry her burden to prove that her evacuation flight departed Baghdad on September 2, 1990. For the purpose of analyzing Claimant’s allegation of being held hostage by Iraq, her evacuation flight departed from Baghdad on September 1, 1990.

(1) Armed Conflict: Claimant alleges that Iraq took her hostage in Iraq on August 2, 1990, and held her hostage until Iraqi officials allowed her to leave Iraq on a Lufthansa charter flight. The flight left on September 1, 1990, which would mean that, if Claimant proves her hostage-taking allegation, Iraq held her hostage for 31 days, from

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<sup>17</sup> Ann Peters, *First Plane of Westerners Arrives in Germany*, UNITED PRESS INTERNATIONAL, Sept. 1, 1990.

<sup>18</sup> Claimant’s counsel represents the claimant in Claim No. IRQ-II-248.

August 2, 1990, to September 1, 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.<sup>19</sup> 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 her and (b) threatened her 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 her release. Claimant satisfies this standard for the 31-day period from August 2, 1990, to September 1, 1990.

(a) Detention/deprivation of freedom: For purposes of analyzing Claimant's allegations of having been detained, her time in Iraq 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 September 1, 1990.<sup>20</sup>

From August 2, 1990, until Iraq formally closed its borders to foreign nationals on August 9, 1990, Iraq confined Claimant to her grandparents' homes in Basra and al-Baladiyat. The Commission has previously determined that Iraq detained U.S. nationals who were in Iraq during this period by threatening them with forcible detention.<sup>21</sup> Although some foreign nationals did manage to leave Iraq during this period, Claimant

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<sup>19</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 16-17.

<sup>20</sup> See *id.* at 20-21.

<sup>21</sup> See Claim No. IRQ-II-281, Decision No. IRQ-II-139, at 9-10.

could not reasonably be expected to have escaped.<sup>22</sup> Iraqi authorities were forcibly detaining and confining foreign nationals (including U.S. nationals) in Kuwait and Iraq, relocating many to Baghdad against their will.<sup>23</sup> Claimant understandably had, as the United Nations Compensation Commission has put it, a “manifestly well-founded fear” of being forcibly detained if she attempted to leave the country.<sup>24</sup> The Commission has previously recognized that for the purposes of the legal standard applicable here, putting Claimant in this situation in effect amounts to detention.<sup>25</sup> Iraq thus detained Claimant from August 2, 1990, to August 9, 1990.

From August 9, 1990, until she flew from Baghdad to Frankfurt on September 1, 1990, the Iraqi government confined Claimant to Iraq, preventing her from leaving the country by the threat of force. As the Commission has previously held, starting on August 9, 1990, the Iraqi government formally closed Iraq’s borders, forcibly prohibiting U.S. nationals from leaving.<sup>26</sup> As of that date, Iraq formally prohibited Claimant from leaving the country, effectively detaining her within the borders of Iraq.<sup>27</sup> For Claimant, this formal policy of prohibiting U.S. nationals from leaving Iraq lasted until August 28, 1990, when the Iraqi government announced that all female and minor U.S. nationals could leave.<sup>28</sup>

Although Claimant may have been legally permitted to leave Iraq on August 28, 1990, her detention did not end on that date. As the Commission has previously

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<sup>22</sup> *See id.* at 10 n.23.

<sup>23</sup> *See id.* at 10.

<sup>24</sup> 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.

<sup>25</sup> *See* Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 21.

<sup>26</sup> *See* Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 7, 21-22.

<sup>27</sup> *See id.* at 22.

<sup>28</sup> *See id.* at 21-22.

recognized, a claimant's detention ends only on the date that she is released from the control of the person or entity that detained her.<sup>29</sup> Any attempt "[by the perpetrator] to restrict [the] movements" of a claimant establishes control,<sup>30</sup> whereas a claimant who has a reasonable opportunity to leave the site of his or her captivity is deemed no longer to be under the perpetrator's control.<sup>31</sup>

Under this standard, Claimant remained under Iraq's control until September 1, 1990. The Commission has recognized that Iraq imposed conditions on air travel that limited the ability of foreign nationals, including U.S. nationals, to leave Iraq and/or Kuwait immediately after the August 28, 1990 release announcement.<sup>32</sup> Indeed, the available evidence indicates that Claimant left Iraq at the first reasonable opportunity, on the September 1, 1990 evacuation flight that left Iraq. Because there is no evidence that Claimant remained voluntarily in Iraq at any time during this period, we conclude that she was under Iraq's control and thus detained from August 28, 1990, to September 1, 1990.

In sum, Iraq thus detained Claimant from August 2, 1990, until September 1, 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.<sup>33</sup> This included Claimant.<sup>34</sup> Both Iraqi President Saddam Hussein and the Speaker of Iraq's

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<sup>29</sup> 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).

<sup>30</sup> 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)).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

<sup>33</sup> See *id.* at 23.

<sup>34</sup> While we determine that these statements apply to Claimant and other similarly situated U.S. nationals who were prevented from leaving Iraq or Kuwait after the invasion, we do not make any findings as to whether they also apply to U.S. nationals with diplomatic status: Iraqi officials made specific representations about the ability of diplomatic and consular staff members with U.S. nationality (and their relatives) to leave Iraq and Kuwait throughout the crisis. See *In Iraq: 'We Have A Problem' Iraq Holds Fleeing U.S. Diplomats*

National Assembly Saadi Mahdi made clear that American nationals (as well as those from numerous other countries) would not be permitted to leave.<sup>35</sup>

In short, the Iraqi government made unequivocal threats to continue to detain U.S. nationals in Kuwait and Iraq. Claimant was a U.S. national in Iraq at the time. Claimant has thus established that Iraq threatened to continue to detain her.

(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.<sup>36</sup> 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.<sup>37</sup> Indeed, at the time, the U.S. government itself understood Iraq's actions to be hostage-taking.<sup>38</sup>

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 31 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.

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*Staff from Kuwait Reaches Baghdad, But Can't Leave*, PHILA. INQUIRER, Aug. 24, 1990, <https://perma.cc/B2YF-79AY>.

<sup>35</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 23.

<sup>36</sup> See *id.*

<sup>37</sup> See *id.* at 23-24.

<sup>38</sup> 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. S.C. Res. 674 (Oct. 29, 1990) ("actions by . . . Iraq authorities and occupying forces to take third-State nationals hostage" and demanded 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.<sup>39</sup> Therefore, for the 31 days Iraq held Claimant hostage, she is entitled to an award of \$305,000, which is \$150,000 plus (31 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.<sup>40</sup>

AWARD

Claimant is entitled to an award in the amount of \$305,000.

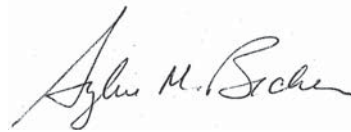
Dated at Washington, DC, September 14, 2017  
and entered as the Proposed Decision  
of the Commission.

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

**December 19, 2017**



Anuj C. Desai, Commissioner



Sylvia M. Becker, 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) (2016).

<sup>39</sup> See Claim No. IRQ-II-161, Decision No. IRQ-II-003, at 24-26.

<sup>40</sup> 22 U.S.C. §§ 1626-1627 (2012).