THE CLAIMS AGREEMENT BETWEEN TURKEY AND THE UNITED STATES OF AMERICA SIGNED AT ANKARA, 25 OCTOBER 1934 AND ITS LEGALLY BINDING IMPACT ON COMPENSATION CLAIMS OF US CITIZENS OF ARMENIAN DESCENT

AVİM

INTRODUCTION

- As is known the Bakalian-Davoyan Cases are lawsuits for damages against the Republic of Turkey and other Turkish authorities claiming that the Ottoman Empire confiscated the properties of Armenian people, whom later became US citizens, who lived in Anatolia during the World War I.
- Hearings of these lawsuits were held in California and they lasted almost nine years.
- The relative district court and the Court of Appeal both dismissed the cases although with different justifications.
- These dismissals are certainly important achievements in the legal sense and will set precedent.
- However, in addition to these precedent cases, the Claims Agreement between Turkey and the US signed on 25 October 1934[1] has significant characteristics which render these lawsuits devoid of any essence in terms of judicial process.
- Therefore, the agreement signed in 1934 between Turkey and the US should play an important role regarding the settlement claims of the US citizens of Armenian descent which were brought to the agenda through the abovementioned cases.

LEGAL BASIS OF CLAIMS FOR DAMAGES IN THE US

- The legal basis for these lawsuits is the law SB1915 which was enacted by the California State Assembly in 2000.[2]
- According to this law, the ones who lived in Anatolia between 1915-1923 and claim that they faced the unlawful practices of the Ottoman Empire and/or their descendants can file compensation lawsuits in California against Turkish authorities.

IS THERE ANY COMPENSATION THAT CAN BE THE SUBJECT OF THESE CASES?

- As a matter of fact, the negotiations between Turkey and the US regarding the

compensation claims, which were also the subject of the abovementioned cases, were held during the Lausanne Conference.

- Resolving the compensation claims of US citizens who left Anatolia due to the relocation and war and who settled in the US and became US citizens, were on the agenda of Turkish and US delegations during the Lausanne Conference and the delegations decided to discuss this issue after the conclusion of the Lausanne Treaty.
- During the contacts through diplomatic channels, an Exchange of Notes between Turkey and the US on compensation of claims was concluded on 24 December 1923 and the formation of a Commission in order to calculate the claims which would be paid by Turkey agreed[3].
- As the Lausanne Treaty was not ratified by the US Senate and this development led to a stalemate in diplomatic relations between Turkey and the US, the negotiations over the claims of the US citizens of Armenian descent could not be held until reaching a Modus Vivendi in 1927.
- The Commission which was decided to be established on 24 December 1923 could not meet until 15 August 1933 in Istanbul.
- The claims were examined comprehensively and in a detailed manner by the Commission. Turkey demanded the list of claimants from the US side. For every file in the list to be regarded as complete, Turkey demanded;
    1. The name and place of birth of the claimant,
    2. The amount of compensation,
    3. The nature and the cause of the claim,
    4. The date of the incident claimed and the cause for a lawsuit,
    5. Evidence regarding claims.
- The fact that the claims necessitating detailed researches, as well as the uncertainties regarding the citizenship of claimants, the view that to reach a settlement through the payment of a lump sum amount by Turkey gained strengthened.
- As a result of months of constructive meetings, the parties agreed that Turkey would pay 1,300,000.00 USD through 13 annual installments to the US to meet the claims.
- This agreement proves that the claims of the US citizens of Armenian descent, which we continue to hear even today and are the subject of meaningless discussions, are, in reality, baseless and unfair allegations.

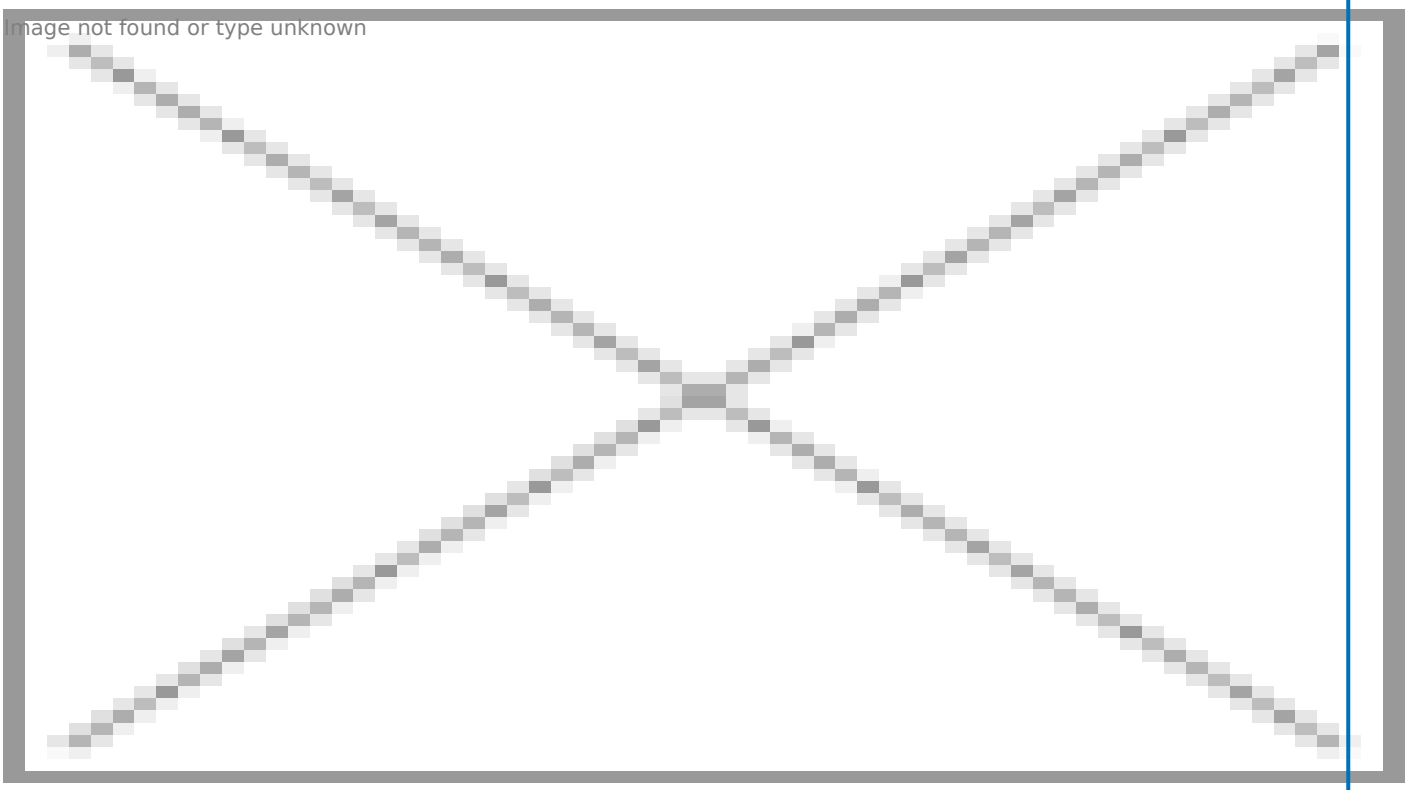
THE AGREEMENT DATED 25 OCTOBER 1934

- The agreement which is officially titled *Claims Agreement Between the United States of America and Turkey* was signed by Turkey and the US on 25 October 1934.
- The agreement was published in the Official Gazette of the Republic of Turkey numbered 2896 and dated 2 January 1935.
- The agreement was ratified by the US Congress on 22 March 1935.
- By the agreement:
    1. The Republic of Turkey will pay the sum of $1,300,000.00 (one million three

hundred thousand dollars) to the Government of the United States of America, without interest, for the full settlement of the claims of the American citizens which are covered by the Agreement of December 24, 1923. Payment of this sum will be made in thirteen annual installments of $100,000.00 (one hundred thousand dollars). Payment of the first installment will be done on June 1, 1936, following the ratification of the present Agreement by the Grand National Assembly of Turkey.

2. The two Governments have agreed that, through the payment of the aforesaid sum, the Government of the Republic of Turkey will be released from the liability with respect to all of the above-mentioned claims formulated against it and they further agree that every claim emanating from the Agreement of December 24, 1923, shall be considered and treated as finally settled.
3. Turkey paid a lump sum amount for the compensation of the US citizens claims.
4. The agreement does not only include the US citizens of Armenian descent but also includes the people of Greek, Armenian and Jewish descent who were Ottoman citizens between 1915-1923 and had a right to compensation.
5. As stated by Fred Kenelm Nielsen, who signed the agreement on behalf of the US Government in the Commission, this agreement puts an end to all of the compensation claims of citizens of a country against the other one.[4]
6. According to the records of the Commission 33 claims were granted compensation by the Commission. The amount of these 33 claims reached 899.338,09 USD. As it will be understood, this amount is less than the agreed 1,300,000.00 USD.

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[5]

CONCLUSION

- The compensation claims, which were subject of this agreement, were meticulously examined.
- There is a significant gap between the compensation claims and the ones who were entitled to compensation.
- The US authorities failure to fully compile the documents and evidence that were demanded by our country during the negotiations played an important role in the emergence of this significant gap.
- It is also observed that this situation had an impact on the decision of carrying out the compensation through a lump sum amount.
- In the framework of these developments, the issue of claims, which was taken up in 1923 between Turkey and the US was concluded in a manner leaving no room for doubt.
- As the articles of the agreement stipulate, Turkey has no other compensation to pay to the US citizens of Armenian descent who were living as citizens of the Ottoman Empire during the World War I in the Ottoman Empire and whose properties were confiscated and who later acquired the US citizenship for various reasons.
- Therefore, it should be mentioned that the Californian law SB1915, in fact, contradicts an international agreement signed by the Government of the US.
- At the same time, neither the existence of this law nor the filing of any lawsuit on compensation in any state of the US, which is claimed to have emerged during 1915-1923 against Turkey and Turkish authorities, could not be regarded as lawful in view of the provisions of international law.

[1] For detailed information on the agreement: Kemal Çiçek, 1934-1935 Türk-Amerikan Tazminat Anlaşması ve Günümüze Yansıması, *Ermeni Araştırmaları Dergisi:* 37 □□□ (2011 2010).

[2] For the full text of the related bill: SB-1915 Insurance: Armenian Genocide Victims., Accessed 30 December 2019, http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=199920000SB1915.

[3] For the Exchange of Notes between Turkey and the US in 1924: PAPERS RELATING TO THE FOREIGN RELATIONS OF THE UNITED STATES, Accessed 30 Aralık 2019, https://history.state.gov/historicaldocuments/frus1923v02/d983.

[4] For detailed information on Nielsens reports: Fred K. Nielsen, *American - Turkish Claims Settlement: Under The Agreement of December 24, 1923, and Supplemental Agreements Between the United States and Turkey Opinion and Reports* (United States

Government Printing Office), Accessed 28 December 2019, https://babel.hathitrust.org/cgi/pt?id=mdp.39015004301209&view=1up&seq=5.

[5] For the English text of the agreement: Claims Agreement Between the United States of America and Turkey, Signed at Ankara, October 25, 1934, Accessed 30 December 2019, https://history.state.gov/historicaldocuments/frus1934v02/d778.

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