

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

In the Matter of the Claim of

ELENI NOTIS

Against the Government of Albania

Claim No. ALB-160

Decision No. ALB-077

Counsel for Claimant:

Gary W. Libby, Esquire
Philip A. Notis, Esquire

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Vlore.

Under section 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render final decisions with respect to claims of . . . nationals of the United States included within the terms of . . . any claims agreement on and after March 10, 1954, concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) . . . providing for the settlement and discharge of claims of . . . nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof.

22 U.S.C. 1623(a) (1994).

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

The claimant in this case has stated that she was the owner of the property which is the subject of this claim when it was confiscated by the Albanian government. According to claimant, she was a citizen of Albania at that time; she subsequently became a citizen of the United States in 1983.

By letter dated February 22, 1996, one of claimant's two attorneys informed the Commission that because the claim form had been completed by "lay people" without the benefit of counsel, he wished to amend the claim by deleting reference to the claimant having been "an Albanian national" at the time her property was confiscated. The claimant's counsel also requested that

the claim form be amended to state that the claimant was then "a national of the United States of America."

Although it is conceded that the claimant was not a citizen of the United States at the time her claim arose, she emphasizes that she emigrated from Albania to the the United States in February 1946 and contends that she was from that time a United States national within the meaning of 8 U.S.C. section 1101(a)(22)(B) in that she was "a person who, though not a citizen of the United States, owe[d] permanent allegiance to the United States."

The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). It is a well-established principle of international law, which this Commission has applied without exception, that a claim may be found compensable only if the property which is the subject of the claim was owned by a national of the United States when the property was expropriated or otherwise taken. *See, e.g., Claim of EUGENIA D. STUPNIKOV Against Yugoslavia*, Claim No. Y-2-0071, Decision No. Y-2-0003 (1967); *Claim of ILONA CZIKE Against Hungary*, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); *Claim of JOSEPH REISS Against the German Democratic Republic*, Claim No. G-2853, Decision No. G-2499 (1981); *Claim of TRANG KIM Against Vietnam*, Claim No. V-0014, Decision

No. V-0001 (1982). This principle has also been recognized by the courts of the United States. *See, e.g., Haas v. Humphrey*, 246 F.2d 682 (D.C. Cir. 1957), *cert. denied* 355 U.S. 854 (1957).

Under Title I of the International Claims Settlement Act of 1949, as amended (22 U.S.C. 1621 *et seq.*), the Commission's jurisdiction is limited to the claims of "nationals of the United States." That term is defined to include both citizens of this country and "persons who, though not citizens of the United States, owe permanent allegiance to the United States." That section specifically excludes "aliens." 22 U.S.C. 1621 (c). Moreover, the Commission historically has held that the phrase "persons who, though not citizens of the United States, owe permanent allegiance to the United States" encompasses only persons from the outlying possessions of the United States. *Claim of EDWARD KRUKOWSKI Against the Government of Poland*, Claim No. PO-9532, Decision No. PO-0927 (1964); *Claim of FARSHAD HAGHI Against the Islamic Republic of Iran*, Claim Nos. IR-0945 and IR-0947, Decision No. IR-1487 (1994). The Commission has further held that an alien does not become a national of the United States "until the procedure of naturalization has been fully complied with and an order divesting him of his former nationality and making him a citizen has been signed by a judge of a court of competent jurisdiction." *Krukowski, supra*. Accordingly, the

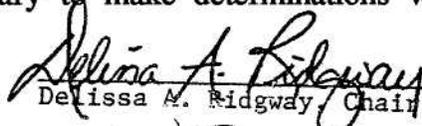
claimant's contention that she became a national of the United States prior to her formal naturalization as a citizen of this country has no basis in the law.

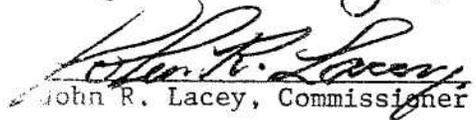
In view of the foregoing, the Commission finds that, at the time the property in question was assertedly taken by the Albanian government, it was not owned by a national of the United States. Accordingly, while the Commission sympathizes with the claimant for the loss of her property, it must conclude that her claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.

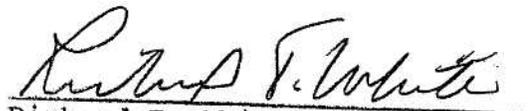
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

MAR 04 1996


Delissa A. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on APR 10 1996

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after service or receipt of notice 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 such service or receipt of notice, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (1994).