

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

In the Matter of the Claim of	}	
	}	
	}	
DEMETRIOS STEPHEN DALIANIS	}	Claim No. ALB-180
	}	
	}	Decision No. ALB-187
	}	
Against the Government of Albania	}	
	}	
Counsel for Claimant:	}	Arthur T. Kolios, Esquire

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Bularat, in the District of Gjirokaster.

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 the property which is the subject of his claim was confiscated by the Albanian government in 1967. According to the claimant, his father, Stephen Dalianis, was the owner of the property at the time of confiscation. To establish his father's United States nationality, as well as his own, the claimant has submitted a copy of his Certificate of Citizenship, issued in New Jersey in 1957. This Certificate of Citizenship establishes that the claimant was a national of the United States as of his date of birth, June 18, 1932. Although claimant has not submitted documentation to establish his father's naturalization as a United States citizen on December 2, 1926, as

alleged, the Commission makes the logical inference that claimant's father, Stephen Dalianis, had acquired his United States nationality by naturalization at some point prior to claimant's birth on June 18, 1932.

The claimant has further stated that after his father's death in 1974, the interest in this claim passed to his mother, Eudoxia Dalianis, an Albanian national. It appears, therefore, that the claimant is seeking compensation based on the prospective inheritance of an interest in the claim from his mother.

By letter dated March 8, 1996, the Commission requested additional information and advised the claimant's attorney that under the Settlement Agreement, the claim for the loss of property must, in addition to being owned by a United States national at the time of confiscation of the property in issue, have been continuously held by one or more United States nationals from the date of the confiscation until April 18, 1995, the effective date of the Settlement Agreement. This requirement is well established in the law of international claims, and has long been applied by both this Commission and its predecessor, the International Claims Commission. *See, e.g., Claim of PETER D. JANUS against Yugoslavia*, Claim No. Y-1721, Decision No. Y-0377 (1954); *Claim of MIA FOSTER against Czechoslovakia*, Claim No. CZ-2696, Decision No. CZ-

0001 (1960). In this case, since ownership of the interest in the claim has passed to the claimant's living mother, an Albanian national, there has been a break in the continuity of United States national ownership of the claim.

Claimant, through his counsel, subsequently requested an extension of the period in which he was required to respond; the Commission granted him an extension of time until May 30, 1996. However, no further evidence has been submitted. Section 531.6(d) of the Commission's regulations provides:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his or her claim.

45 C.F.R. 531.6(d)(1995).

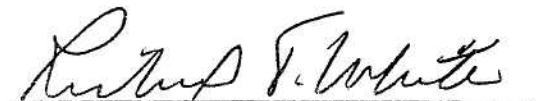
The claimant is responsible for the production of evidence in this case and thus bears the burden of proof in submitting independent objective evidence. To date, the claimant has not met his burden of proof to establish the continuous United States nationality of the ownership of this claim. In the absence of such evidence, the Commission must conclude that claimant's 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.

OCT 07 1996


Delissa A. Ridgway, Chair


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on DEC 03 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) (1995).