

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

In the Matter of the Claim of

FERIDE SHABAN
SEDAT SHABAN
LUAN SHABAN

Against the Government of Albania

Counsel for Claimants:

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}
} Claim No. ALB-264

}
} Decision No. ALB-181

}
} Dan Shaban, Esquire

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property in Kapshtice and Treni, in the District of Korce.

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).

Two Statements of Claim have been submitted in this case, for properties allegedly confiscated by the Albanian government. One claim, made by all three claimants in this case, is based on an interest in real and personal property located in Kapshtice, which was allegedly confiscated between 1949 and 1950. At the time of confiscation, according to the claimants, the properties in Kapshtice were owned by Selajdin Shehu, FERIDE SHABAN's first husband, and his brothers, all then Albanian citizens.

The second claim, made by FERIDE SHABAN alone, is for the loss of real and personal property in Treni, which was allegedly confiscated by the Communist government in 1945. The real and personal properties described on this claim form are virtually identical to the real and personal properties listed in the Kapshtice claim. According to the claimant, this property was owned by her second husband, Neim Shaban (aka John Hayes), who was naturalized as a United States citizen on October 14, 1929.

By letter dated February 29, 1996, the Commission notified the claimants that the record did not establish the United States nationality of the owner(s) of the properties in Kapshtice as required by the Settlement Agreement. In addition, the letter requested that claimants submit evidence of the date of Neim Shaban's death, a copy of his will or other evidence identifying them as heirs to the property losses claimed in Treni, as well as evidence of Neim Shaban's ownership of these properties, and some evidence of the date and circumstances of the alleged confiscations. On August 1, 1996, the Commission reiterated its request and also asked the claimants to explain the apparent similarity between

the properties in Kapshtice and those in Treni. Specifically, the Commission asked the claimants to submit evidence to establish that the properties identified in Treni are in fact different from the properties claimed in Kapshtice. The Commission informed claimants that if the requested information was not received within thirty days, the claim would be submitted for decision on the basis of the existing record. Although claimant's counsel responded to the Commission's June 6, 1996, letter, no evidence of probative value has been received, and the Commission's subsequent letter has remained unanswered.

Claimants in both claims have failed to produce the documentation required to establish the basic elements of their claims.

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 Commission finds that the claimants have not met the burden of proof in that they have failed to submit supporting evidence to identify the properties which are the subject of their claim, their interest in or ownership of the claimed properties, and the dates and circumstances of the alleged confiscations.

The Kapshtice claim fails on another ground as well. As discussed above, claimants assert that the property at issue was owned by three Albanian nationals at the time of confiscation.

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). Since the property at issue here was owned by Albanian nationals at the

time of confiscation, the claim is not compensable under the terms of the Settlement Agreement.

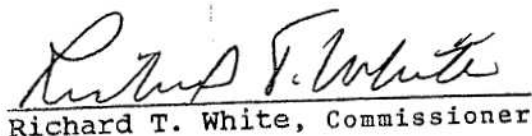
Accordingly, the Commission must conclude that the claimants' claims are not compensable under the terms of the Settlement Agreement. The claims therefore must be and are hereby denied.

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.


Delissa M. Ridgway, Chair

OCT 07 1996


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).