

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).

Counsel for the claimants has submitted two separate Statements of Claim, on behalf of JULIA J. HARIZI and DEMETRA PETERS, respectively, for interests in real property allegedly confiscated by the Albanian government in 1946. Both claimants assert, through their counsel, that the property which is the subject of their claim was originally owned by Katherine Peters (a.k.a. Katelina Lenko), a national of the United States.

The first claimant, JULIA J. HARIZI, asserts a claim for five acres of land located "on the State Road, Drenova, Albania." The claimant asserts her claim on the basis of the wills of her grandmother, Katherine Peters, and her mother, Olga Peters, which were submitted as evidence by both claimants. The will of Katherine Peters specifically devised a parcel of land consisting of five acres "more or less situated in Albania near the main State road" to her daughter Olga G. Peters (JULIA J. HARIZI's mother). All the rest and residue of her estate, including the remainder of her estate in Albania, she gave to her son, Christie Peters, the husband of DEMETRA PETERS.

The Statement of Claim form submitted on behalf of DEMETRA PETERS states that compensation is sought for real property including a house and land "diagonally across the street from Town's faucets where the people get their water." As indicated above, she bases her claim on an interest in the loss of property originally acquired by her husband, Christie Peters, under his mother's will, and which, upon his death in February 1961, devolved in turn upon her in accordance with his will. Copies of the death certificate and will of Christie Peters were submitted as evidence in the claim.

By letters dated February 29 and March 1, 1996, the Commission requested that counsel for the claimants submit evidence of the United States nationality of the claimants and their predecessors, including Olga Peters, Katherine Peters, and Christie Peters, as well as some evidence of the date and circumstances of the alleged confiscations. The Commission subsequently received verified translations of numerous ownership documents which were originally submitted in Albanian and Turkish. However, no evidence establishing the United States nationality of the original owner or her heirs was submitted. On November 6, 1996, the Commission reiterated its request for proof of nationality. However, no further evidence or response has been received.

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).

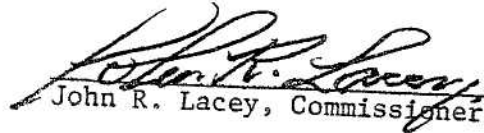
The Commission finds that the claimants have not met the burden of proof in that they have failed to submit evidence of the United States nationality of the original owner of the property which is the subject of their claim. In the absence of such evidence, the Commission cannot conclude that the claimants' claim is 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.

NOV 18 1996


Delissa M. Ridgway, Chair


John R. Lacey, Commissioner


Richard T. White, Commissioner

This decision was entered as the Commission's
Final Decision on JAN 14 1997

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).