

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

In the Matter of the Claim of	}	
	}	
	}	
	}	Claim No. ALB-330
FIKRI AGOLLI	}	
	}	Decision No. ALB-314
	}	
Against the Government of Albania	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property located in Golloberde , in Vishotice and in Bilisht, Albania.

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)(2004).

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 asserts a multi-part claim. The first claim is for 100 acres of agricultural land, including a house and barn, located in Golloberde that claimant asserts was confiscated between 1945 and 1946. He also asserts that he lost miscellaneous personal property located thereon including 8 cows, 2 horses, 1 donkey, 1 mule, 65 sheep and 30 goats. In addition, claimant claims for a two-story building containing a shoe store located in Bilisht and a mill house located in Vishotice which he asserts were confiscated sometime after 1951. Finally, claimant asserts that approximately 200 kilos of gold coins left in care of his late sister was confiscated sometime in the 1960's.

In handwritten attachments to the claim form, claimant has stated that the above properties belonged to his father, Baki Agolli, an Albanian citizen who may have become a naturalized American citizen sometime in 1961. In support of his claim, claimant has also submitted evidence that he became a United States national by naturalization in 1961. In addition, he has submitted a copy of his father's death certificate and his own affidavit regarding the ownership and loss of the gold coins for which he claims.

By Commission letters dated March 24, 2005, May 19, 2005, and September 7, 2005, and during telephone conversations with a member of the Commission's legal staff, claimant was requested to provide evidence to establish his father's United States citizenship and the ownership and confiscation of the properties in question. Claimant was further advised that in order to be successful in his claim before the Commission, he bore the burden of establishing that when the properties were confiscated, they belonged to a United States national and not to an Albanian citizen. The Commission allowed him until August 31, 2005, to provide the necessary evidence, and in response to a letter from him dated August 18, 2005, requesting an extension of time, the Commission extended that deadline to November 30, 2005. Since August 18, 2005, however, the Commission has received no further communication from the claimant.

Section 509.5(b) of the Commission's regulations provides:

The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

45 C.F.R. 509.5(b)(2005).

In addition, it must be noted that under the ICSA, the Commission is required to decide claims in accordance with “[t]he applicable principles of international law,” (ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2)), and it is a well-established principle of international law that the Commission may find a claim 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).

Based on its review of the record before it, the Commission finds that the claimant has not met the burden of proof in that he has failed to submit evidence to establish the existence or ownership of any of the property which is the subject of his claim or the date and circumstances of its alleged confiscation, or to establish that the property was owned by a national of the United States at the time of confiscation by the Albanian government. Accordingly, while the Commission sympathizes with the claimant for the loss of his family's property, it must conclude that his 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.

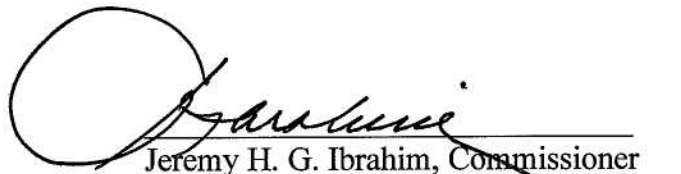
Dated at Washington, DC and
entered as the Proposed
Decision of the Commission

FEB 09 2006



Mauricio J. Tamargo, Chairman

This decision was entered as the Commission's
Final Decision on MAR 16 2006



Jeremy H. G. Ibrahim, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after delivery 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. 509.5 (e) and (g) (2005).