

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

In the Matter of the Claim of	}	
	}	
	}	
ZANA HEPPELRY	}	Claim No. ALB-331
	}	
	}	Decision No. ALB-315
	}	
Against the Government of Albania	}	
	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Korce, 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)(2002).

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 that the property which is the subject of her claim belonged to her mother, Myriban Hasana Quku, and to members of her mother's family, for several generations. The property is said to have consisted of "a smokehouse for meats, a shop, a house and agricultural lands". Claimant states that she "suspect(s) the Germans destroyed and confiscated [her] Hasana family home and land. Then the Communist party was given restitution for the loss."

In support of her claim, the claimant has submitted evidence that she acquired United States nationality in 1959, and she has also submitted a copy of her mother's death certificate. However, she has submitted no documentation

or other evidence to substantiate the ownership of the property or the nationality of the owner of the property for which she claims. Nor has the claimant indicated whether her mother or grandparents ever obtained United States nationality prior to the asserted confiscation.

By Commission letters dated April 14, 2005 and May 10, 2005, the claimant was requested to provide evidence of ownership and of confiscation of the property in question and suggestions were made as to how to go about obtaining such documentary evidence from Albania. To date, however, no further evidence has been received.

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)(2004).

The Commission finds that the claimant has not met the burden of proof in that she has failed to submit evidence establishing the ownership of the property which is the subject of her claim or the date and circumstances of its alleged confiscation.

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).

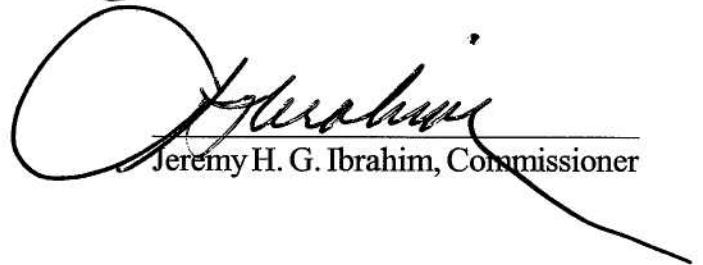
Accordingly, while the Commission sympathizes with the claimant concerning her family's losses, it must conclude that, for the reasons discussed above, her claim is not compensable under the terms of the Settlement Agreement. Therefore, her claim must be and is hereby denied.

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

JUN 23 2005



Mauricio J. Tamargo, Chairman



Jeremy H. G. Ibrahim, Commissioner

This decision was entered as the Commission's
Final Decision on AUG 02 2005

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 delivery, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (2004).