

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

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| In the Matter of the Claim of     | } |                      |
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| SABET BABAMETO                    | } | Claim No. ALB-333    |
| DRITA PERKINS                     | } |                      |
| LEE ORUCI                         | } | Decision No. ALB-317 |
| WILSON KOKALARI                   | } |                      |
|                                   | } |                      |
|                                   | } |                      |
| Against the Government of Albania | } |                      |

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Hearing on the Record held on January 25, 2007

FINAL DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property said to have been located in Palokaster, Vurg (town of Delvina), Durres and Gjirokaster.

By Proposed Decision entered on September 29, 2005, the Commission denied this claim on the ground that the claim was not continuously owned by a United States national from the date it arose until April 18, 1995, the effective date of the U.S.-Albanian claims settlement agreement. The Commission determined that although the claimants' father was a United States national at the time the claimed property was taken by the Albanian Communist regime, the claim for the loss of the property passed by will to the claimants' mother, Makbule Kokalari, a non-United States national, upon their father's death in 1964.

By letter dated October 28, 2005, the claimants stated objections to the Commission's Proposed Decision. Since they did not request an oral hearing, the Commission issues this Final Decision in a hearing on the record, based on its *de novo* review of the evidence and arguments submitted in support of the claim and the claimants' objection.

The claimants have raised four arguments in support of their objection to the Commission's Proposed Decision. They argue that their mother was not the sole beneficiary under their father's will; that their mother felt that she did not need to apply for United States citizenship; that their father would have left the claim to his children had he foreseen the collapse of the Communist regime; and that the requirement for continuous ownership by a United States national is a "technicality which does an injustice to U.S. citizens." Each of these arguments is discussed separately below.

Claimants first argue that the Commission has misinterpreted their father's will. They assert that "While it is true that our mother Makbule Kokalari was named e ecutri [sic] of our father's estate she was not the sole beneficiary." However, while the claimants' contention is technically correct, in that their father also made specific bequests of money in his will to other beneficiaries, he named their mother as residuary beneficiary of his estate, thereby making her the successor owner of his claim against Albania upon his death.

Under the International Claims Settlement Act (ICSA) of 1949, as amended (22 U.S.C. 1621 *et seq.*), the Commission is required to 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 the law of international claims, which has been applied without exception by both this Commission and its predecessor, the International Claims Commission, that a claim may be found compensable only if it was continuously held by a United States national from the date it arose until the date of settlement. *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); *Claim of RICHARD O. GRAW Against Poland*, Claim No. PO-7595, Decision No. PO-8583 (1965). Accordingly, since this claim was not owned by a United States national during the time it was owned by the claimants' mother, the Commission is precluded from finding it compensable.

The claimants next assert that "The Albanian women, including our mother, spoke very little or no English at all. They usually never worked outside of their homes and were completely supported by their husbands. As a rule, they also never left this country for any type of vacation or for other personal matters and hence they never felt the need to apply for citizenship." However, this argument is also

without merit. Even if the claimants' mother did not believe that she needed United States citizenship for other aspects of her life, that belief has no bearing on whether the present claim was continuously owned by United States nationals from the time it arose until April 18, 1995, as required in order for it to be compensable under the ICSA.

The claimants' third argument is that their father "more than likely would have specifically designated the properties he owned in whole or part in Albania to his children if he had foreseen the collapse of the Communist Regime." However, this argument is also without merit, as it would have the Commission disregard the express terms of the claimants' father's will based entirely on speculation, conjecture, and hindsight.

Finally, the claimants assert that "To be denied a claim because properties were not owned continuously thereafter by one or more U.S. Nationals up to the time of filing the claim we feel is a technicality which does an in-justice (sic) to United States citizens." As discussed above, however, the requirement of continuous ownership of claims by United States nationals is not simply a

“technicality” but rather is a basic principle applied by the Commission in all of the claims programs it has administered.

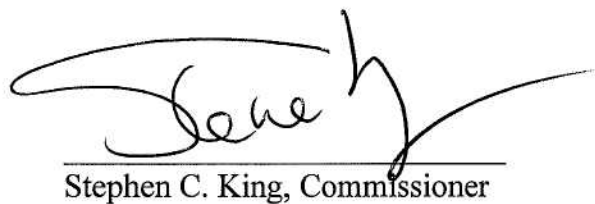
In summary, therefore, based on its careful review of the record as supplemented, and having noted claimants’ written objections and taken into account the evidence submitted, the Commission must conclude that their objections are without merit. Accordingly, while the Commission sympathizes with the claimants for the loss of their family’s property, it is constrained to conclude that the Proposed Decision must be and is hereby affirmed. This constitutes the Commission’s final determination in this claim.

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

JAN 25 2007



Mauricio J. Tamargo, Chairman



Stephen C. King, Commissioner

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PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real and personal property said to have been located in Palokaster, Vurg (town of Delvina), Durres and Girokaster.

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).

Claimants state that when the properties that are the subject of this claim were confiscated in 1944, they were owned in part by their father, Mike Kokalari,\* a citizen of the United States since 1924, and that he subsequently died in 1964. As the basis of their claim, they assert that upon his death, they each inherited a one-fifth share in his estate. (Their brother Albert Kokalari has apparently chosen not to participate in this claim). They are all United States citizens by birth. However, in its decision on a claim submitted to the Commission under Title II of the War Claims Act of 1948, 50 U.S.C. App. 2017 *et seq.*, shortly after their father's death, the Commission determined that their mother, an Albanian national, was the sole beneficiary of their father's estate under his will. (*Claim of MAKBULE KOKOLARI, EXECUTRIX OF THE*

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\*Claimants currently spell their family name as "Kokalari," but their parents spelled it "Kokolari."

*ESTATE OF MIKE KOKOLARI*, Claim No. W-3964, Decision No. W-18488 (1966)). The claimants assert that “the attorney representing their mother should have named all 5 descendents [sic] since all 5 children of the decedent were U.S. citizens,” but they have provided no support for this assertion.

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 the law of international claims, which has been applied without exception by both this Commission and its predecessor, the International Claims Commission, that a claim may be found compensable only if it was continuously held by a United States national from the date it arose until the date of settlement. *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), *Claim of RICHARD O. GRAW Against Poland*, Claim No. PO-7595, Decision No. PO-8583 (1965).

Based on its determination in the earlier claim of their mother, the Commission is constrained to find that the present claim was not continuously owned by a United States national from the date it arose until the date of settlement, since it was owned for a time by a non-United States national following the death of Mike Kokalari in 1964. Accordingly, while the

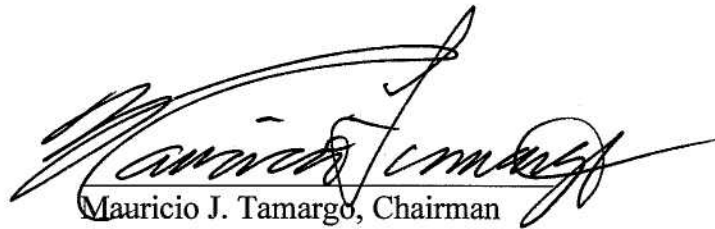


Commission sympathizes with the claimants for the loss of their family's properties, it must conclude that their claim is not compensable under the terms of the Settlement Agreement. The claim therefore must be and is hereby denied.


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.

SEP 29 2005



Mauricio J. Tamargo, Chairman



Jeremy H. G. Ibrahim, Commissioner

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. 509.5 (e) and (g) (2004).