

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

In the Matter of the Claim of	}	
	}	
	}	
LORETA AGOLLI	}	Claim No. ALB-348
PETRINA PANI	}	
	}	
	}	Decision No. ALB-332
	}	
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 in the administrative 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) (2006).

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 claimants in this claim have stated that the property which is the subject of this claim was confiscated by the Albanian Communist regime on an unspecified date in 1945. At that time, they assert that the property was owned by their mother, Mary Kasuli, a United States citizen by birth, based on a provision of the will of their great-grandfather, Foti Kristo Mitezi, which is said to have been executed by him in 1945.

In support of this claim, the claimants have provided a copy of "Decision No. 1183 of the Municipality of Korce Commission of Restitution and Recompense of Properties to the Real Owners" dated November 24, 1995; a copy of the will of their great-grandfather; and a "Property Verification" from the District of Korce, also dating from 1995.

A careful examination of the documents submitted confirms that the claimed property was originally owned by claimants' great-grandfather, Foti Kristo Mitezi. An examination of Mr. Mitezi's will, executed in 1945, also

discloses that claimants' mother, Meri Petraq Foti Miteziu, was to inherit a one-quarter share of the property claimed for herein.

The claimants' contention is that the naming of their mother in the will in 1945 created an effective present ownership interest in the property in her favor, which was then confiscated by the Albanian Communist regime, thereby giving rise to a compensable claim under the Settlement Agreement, since she was a national of the United States at all times from her birth in 1921 until her death in 2008. However, it is a well-known maxim of the law that "no one is an heir of the living." As such, Mr. Mitezi's act of signing his will did not in itself have any legal effect but rather created only a contingent future interest in claimants' mother's favor that became effective on the date of Mr. Mitezi's death, which is said to have occurred in 1957. Accordingly, it appears from the evidence before the Commission that the property in question was in fact owned by Mr. Mitezi at the time of its confiscation in 1945, and there is no indication that Mr. Mitezi ever held United States nationality.

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 that a claim may be found compensable only if it was owned by a United States national at the time the claim arose. *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). Indeed, in the statute authorizing the Second Czechoslovakian Claims Program, Congress reaffirmed “the principle and practice of the United States to seek compensation from foreign governments on behalf only of persons who were nationals of the United States at the time” of loss. 22 U.S.C. note prec. § 1642 (2006).

In a letter dated May 3, 2010, the Commission staff explained to the claimants that, because the property in question appeared to have been in the legal ownership of their great-grandfather in 1945, when it was said to have been confiscated, evidence would be required to establish that he was a United States national at that time in order for their claim to be compensable. To date, however, the claimants have not responded to that letter.

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)(2010).

The Commission finds that the claimants have not met their burden of proof in that they have failed to provide evidence establishing that this claim was held by a United States national at the time it arose. Accordingly, while the Commission sympathizes with the claimants for the loss of their great-grandfather's property, it must conclude that their claim is not compensable under

the terms of the Settlement Agreement. The claim must therefore 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, June 3, 2011
and entered as the Proposed Decision
of the Commission.


Timothy J. Feighery, Chairman


Rafael E. Martinez, 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 Second Amended 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) (2010).